The Gateway to POLITICAL SCIENCE

(Theory)

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THE GATEWAY
To
POLITICAL SCIENCE

THEORY

(FOR DEGREE STUDENTS)

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PREFACE TO THE FOURTH EDITION

The fourth edition of *The Gateway to Political Science* is the result of another thorough revision. A conscientious effort has been made to enhance the usefulness of the book. Many important topics have been discussed in greater detail. Facts and figures have also been brought up-to-date.

The book meets the requirements of the Degree students of the Universities in Pakistan and is based on standard works.

All suggestions for improvement will be gratefully received.

AUTHORS

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CHAPTER I
NATURE OF POLITICAL SCIENCE

outline

Meaning and scope of Political Science
Exact name of the subject
Scientific status of Political Science
Methods of its study

I. Define 'Political Science' and indicate its scope. How will you distinguish it from politics and political philosophy ? (*V. Important*)

Definition. We have heard of History, Economics, Psychology, Sociology, Civics and Philosophy ; but what is Political Science ? It is that branch of human learning which is concerned with the State.

The word 'political' comes from the Greek word 'polis' meaning city. Thus, 'political' means 'pertaining to the problems of the city.' The Greeks lived in City-States—small tracts of land centring round a town To them a city and a State were one. Hence the term "political" came to mean concerning the problems of the State'. Though we have today large territorial States (or as MacIver calls them, Country States), political Science retains its old meaning—it is that science which is concerned with the problems of the State. Briefly, *it is the science of the State.*

This definition needs further clarification. What is the 'State' ? What is 'science' ?

Man is a social animal. His social instinct impels him to live in society. He regards solitary life as poor, gloomy and intolerable. He feels miserable when he is forced to live alone. Even the persons we hate are preferable as companións to the desert and the seas. Necessity also compels man to live in society. Man is not self-sufficient. He cannot satisfy his material and other needs alone. Without society he would lead a barren and precarious existence All that makes life possible and beautiful is the direct result of man's living in society.

But man's life has another aspect also. He may be incomplete by himself, but he is himself first and foremost. He has his individual desires and ambitions, and to satisfy them he wants to have his own way in society His social instict is checked and endangered by his individualism. So, it is possible that in an endeavour to satisfy their desires and ambitions, individuals in society may come into conflict with one another. The relations of the individual members of society, therefore, need to be regulated. When a society is organised for the purpose of law, it becomes a political society. The term 'State', is applied to such a society. People, territory, government and sovereignty (or independence) are the four essential elements of the State. The following definition of the State is widely accepted.

"The State, as a concept of Political Science ond Public law, in a community of persons, more or less numerous, permanently occupying a definite portion of territory, independent or nearly so, of external control, and possessing an organised government to which the great body of inhabitants render habitual obedience."

Science means a branch of knoweldge or study dealing with a body of facts systematically arranged and showing operation of general laws, or science is a body of systematised knowledge about a particular subject. So political Science is a body of systematised knowledge with regard to the State. It deals with all aspects of the State—its past, its present and its future. It traces its origin and development, examines its nature, and structure, and marks out the end or purpose which it ought to have in view.

SCIENCE OF GOVERNMENT

Some writers say that Political Science is *the science of government*. For example, Leacock and John Seeley maintain that Political Science deals with government. But this is not a satisfactory definition, as it very much restricts the scope of Political Science. Politics is cencerned with the welfare of all and not just with the welfare of those few who are in power. The study of Political Science cannot, therefore, be confined to government only.

SCIENCE OF STATE GOVERNMENT

There are other writers who define Political Science as the *Science of both State and government*. For example, in his book 'Principles of Political Science', Gilchrist says: "Political Science deals with the State and government." But in our view this definition does not make any significant improvement upon the definition of Political Science as the science of the State. The reason for this is that there can be no State without government. It is true that they have to be distinguished, but that does not mean that the State can exist without government. Government is the indispensable machinery of the State. It is the instrument through which the State manifests itself and realises its ends So the study of the State will automatically include the study of government. The two cannot be separated from each other. The central theme of Political Science is the State Anyhow, to emphasise the importance of government and for the sake of convenienivce we may define Political Science as the science of the State and government. As a science of the State, Political Science studies fundamental problems such as origin of the State, the nature of the State, the purpose or end of the State meaning of sovereignty liberty, right, etc. This part of Political Science may be called 'Political Theory'. As a science of government, it is concerned with the working of government, the various forms of government and their relative advantages.

We quote below a few well-known definitions of Political Science :

1. "Political Science is the science which is concerned with the State, which endeavours to understand and comprehend the State in its fundamental conditions, its essential nature, its various

forms of manifestation, and its developement". (Bluntschli—a Swiss scholar).

2. "Political Science begins and ends with the State" (Garner).

3. "Political Science is that part of social science which treats of the foundations of the State and the principles of government." (Paul Janet—a French writer).

4. Political Science is "a historical investigation of what the State has been, an analytical study of what the State is, and a polico-ethical discussion of what the State ought to be." (Gettell).

Scope. As the definition quoted above show, the field of Political Science is very comprehensive and its subject-matter includes the study of (*a*) the State as it is ; (*b*) as it has been ; and (*c*) as it ought to be. Thus it comprehends within its scope all the phases of the State.

The study of the State 'as it is' includes subject such as the nature of the State, its Constitution and governmental structure, the regulations imposed by it upon individuals and groups, its relation to other States, etc. It will mean an analytical study of the State.

To understand the nature of the State today, a Political scientist must look to the past. The present has its roots in the past. A study of the State 'as it has been' means a historical enquiry into the various forms through which it has passed, and a historical survey of factors and various ideas that are responsible for its origin and development. It may be called a historical study of the State.

Finally, a study of the past and present is helpful in planning for the future. A political scientist has to find out an answer to the question : "Which is morally the best State ?" A study of the State as 'it ought to' will include the study of the ultimate ends of the State and the proper functions of government which is the administrative agent of the State. It thus means an ethical study of the State.

Political Science, thus, helps us to explain the past of the State, to understand its present and to direct its future.

Political Science and Politics. Some writers use the term 'Politics' to indicate what is meant by Political Science. The Greek writers, including Aristotle, used this term during their discussion on the State. Sir Frederick Pollock, the well-known English writer, also used the term 'Politics' and divided the science into two branches, namely, theoretical Politics, dealing with fundamental characteristics of the State, and applied Politics, dealing with the State in action, *i.e.*, the working of government.

It may be said that the use of the word 'Politics' in place of Political Science is not a happy choice. Its use in its original Greek connotation may have been all right but at present it is loosely used to denote the current problems of the day and the policies of government that, influence the life of the people at a particular time. It

also refers to the struggle for power. A person interested in politics is supposed to be interested in day-to-day affairs of the State. He may be a member of some political party and very active in shouting slogans. He may be a very good organiser of election campaigns. But he may have never studied anything about the subject-matter of the State or the principles underlying government. He is a politician, not a political scientist. The difference between political Science and Politics is the same as that between a political scientist and a politician.

Thus, the term 'Politics' in its common usage is rather misleading and does not mean a serious study of the State. It has, therefore, to be rejected.

Political Science and Political Philosophy. The name Political Philosophy is sometimes suggested for the science of the State It is a term which is used to mean all that is speculative in Political Thought. According to Prof. Gilchrist, Political Philosophy deals with the fundamental problems of the State and government, questions of duties and rights, political with only theoretical studies without referring to the practical working of the State. It does not cover the entire field with regard to the State and government.

Political Science is, however, concerned not only with such problems but also with the history of political institutions. This history has no place in Political Philosohy. So the scope of Political Science is wider than that of Political Philosophy and the name 'Political Science' is more appropriate than the name 'Political Philosophy' for the study of the State.

POINTS AT A GLANCE

1 *Political Science is the science of the State and government.*

2. *Its scope is very wide. It studies the State as it is, as it has been and as it ought to be.*

3. *The term 'Politics' is used by Aristotle and others as the name for the science of the State, but these days it generally stands for current political problems and is misleading.*

4. *Political Philosophy covers only a part of the study of the State. It is concerned with the theoretical aspect of the State.*

2. **Is Political Science really a science? Discuss.**
(*Important*)

Political Science has been defined as the science of the State and government. Is the term 'science' a correct description ?

Aristotle, the Greek philosopher, called Polititcal Science the master science. But some writers dispute its scientific status. Maitland says : "When I see a good set of examination questions headed by the words 'Political Science' I regret not the questions, but the title." Another writer, Buckle, comments on the scientific status of Political Science in these words : "In the present state of knowledge, Political Science far from being a science is one of the most backward of all arts."

Critics who challenge the claim of Political Science to be treated as a science put forward the following arguments.

In the first place, the 'laws' or generalisations or conclusions of Political Science are not exact. They cannot be usefully applied to solve political and social problems or to make political forecasts. For example, a political scientist can never tell when economic unrest will lead to a revolution in the State. The laws or conclusions of exact sciences like Chemistry and Physics are very accurate.

Secondly, there is no scope for conscious experimentation in Political Science. It is not possible to create certain ideal conditions in the State to perform some political experiment. But in a science laboratory, experiments can be performed under controlled conditions

The objections raised against the claim of Political Science to be treated as a science do contain some truth. Political Science as well as other social sciences (like Economics, Ethics, Psychology, etc.) lack the exactness of Chemistry and Physics. The reason for this is that physical sciences like Chemistry and Physics deal with inanimate substances the nature of which knows no change. For example, red litmus paper will always turn blue if placed in an alkaline solution and blue will turn red if placed in an acid solution. Two parts of hydrogen and one part of oxygen will always yield water But social sciences, including Political Science, deal with human beings, not things Man has a will of his own and is capable of being influenced by various considerations and impulses. He is incalculable. His personality has many aspects and we can never tell which aspect of his personality will assert itself at a particular time. One day he demands freedom; the next day he puts his neck under the foot of a dictator quietly. So, it is difficult for Political Science to arrive at mathematically predictable results.

It is also true that it is never possible for a political scientist to employ the laboratory method of experiments. He cannot, for example, experiment in revolutions to test his assumptions and theories. But all this does not mean that Political Science is not a science at all.

After all, what is a science ? A body of systematised knowledge about a particular subject is called a science. Every science collects facts regarding its subject by observation and experience, then systematises and classifies them in order to formulate general principles or laws. If this is the meaning of science, Political Science cannot be denied the status of being a science. Political scientists and thinkers have made study of the working of political institutions during the past and present and have collected together a vast mass of facts. Like scientists, they have analysed, co-ordinated and systematised their facts to arrive at certain conclusions and principles which underlie political institutions. For example, to understand why revolutions take place, they have collected facts about various revolutions in the past. After studying them systematically, they have come to the conclusion that poverty of the masses and concentration of power in the hands of a small group

or clique, are its underlying causes. This conclusion holds good under ordinary circumstances.

Further, although the laboratory method of experiment is difficult with social sciences, yet to say that a political scientist can never experiment, would be to define experimentation in a very narrow sense. Every change in law or policy changes the very life of the people and is in a sense an experiment. 'Every change in the form of government, every new law passed, every war is an experiment in Political Science' (Gilchrist). Mahatma Gandhi used the weapon of *satyagraha* to liberate India. That was an important experiment in political history. The democratic government set up under the Constitution of free India is also a great political experiment. Political thinkers and statesmen of the world are watching this experiment with keen interest.

To sum up, we can say that Political Science is a science. It may not be an exact science, but is definitely scientific in outlook. Its approach to the subject is scientific. Scientific approach (or method) means a dispassionate and accurate collection of facts, the careful analysis of this raw material, and the formulation of general laws or principles. The principles of Political Science may not be exact and universal but they are generally valid and useful in solving problems of the State and government. Political Science cannot be denied the status of being a science, though it has all the limitations of social sciences.

METHODS OF POLITICAL SCIENCE

3. What are the methods used for the study of Political Science?

Every science employs certain methods to study its material and to reach its conclusions. Political Science is the science of the State and government. Like any other science, it applies certain scientific methods to the study of political facts. The following methods are generally suggested for political investigation.

Experimental Method. The scope of this method in Political Science is limited. It is not possible for a political science to select one State and experiment there with democracy or dictatorship and select another State to experiment with socialism. This does not mean, however, that experiments have no place in the political field. Political experiments are being conducted almost in every country. Every new law is a political experiment. Every new Constitution serves the purpose of a political experiment. The establishment of democracy in India is a huge political experiment. The weapon of *Satyagraha* employed by Mahatma Gandhi to achieve freedom was a successful political experiment. The Soviet Union is experimenting with socialism or communism. A political scientist can study all these eperiments and arrive at certain principles of general applicability.

But we must remember that the political phenomena are very complex. They are influenced by various factors—economic, religious

racial, geographical and psychological. So a political scientist must exercise great care in the study of such political experiments.

Historical Method. The historical method is very useful in Political Science. We can properly understand the nature of political institutions only when we study the history of their origin and development. According to this method, the origin and stages of development of political institutions and movements are studied with a view to understanding their present nature and to predicting their future. As Sir Frederick Pollock puts it, the historical method 'seeks an explanation of what institutions are and are tending to be, more in the knowledge of what they have been and how they came to be what they are than in the analysis of them as they stand.' Historical survey of political institutions and movements provides the data with the help of which a political scientist tries at certain general principles. Take, fors example, nationalism To understand its nature and to predict it future it is necessary to study its past. Freeman and Seeley are the two chief advocates of this method.

The historical method should be used with great caution. Political institutions are the results of the interplay of certain peculiar factors and cirumstances. The political investigator must carefully study all factors and circumstances before arriving at any generalisations He must interpret historical material in a dispassionate and impartial manner and must not allow himself to be influenced by pre-conceived ideas and prejudices

Comparative Method. This method is only a modified form of the historical method. It tries to discover general laws and conclusions from past and present political institutions and events by selection, comparison and elimination. For example, by comparing the facts of the various revolutions, a political investigator may discover the causes which are generally responsible for such social upheavals

The investigator, however, must use this method carefully. History never repeats itself No two political events can be of the same character. The political investigator should, therefore, try to collect pertinent facts. He should make due allowance for diverse conditions prevailing in different countries. He must also avoid superficial resemblances.

This method was used successfully by Aristotle.

Method of Observation. Some writers are of the opinion that observation is a distinct method. According to this, a political investigator tries to arrive at certain conclusions by studying political institutions from close quarters. This method was used by Lord Bryce. Before writing his famous books, *The American Commonwealth* and *The Modern Democracies*, Lord Bryce visited the countries concerned and observed the actual working of political institutions at close range. He had discussions with statesmen and administrators of these countries.

The advantages of this method are quite evident. It is based on personal information and is very practical. Nevertheless, it must be used with great caution The investigator who employs

this method must observe things free from prejudice. He must have the ability to sift evidence. He must not be lost in superficial resemblances.

It should be noted here that the method of observation is not an independent method. It is only a form of the comparative method. The only difference between the two is that the method of observation is applied to present institutions and problems, whereas according to the comparative method general laws and conclusions are arrived at from the study of past and present States, by selection, comparison and elimination.

Philosopical Method. The methods we have mentioned above are inductive ones. An inductive method is a method of reasoning in which general laws are obtained by studying particular facts or evidence. The philosophical or speculative method is a deductive one. According to this method, a political investigator assumes an abstract principle or idea about human nature or society and draws deductions from it regarding the nature, functions and ends of the State. Among the chief exponents of the method are Plato and Rousseau.

The danger of this method is that the political investigator who uses this method may become too much speculative in his approach to the problems of the State and Government and may arrive at certain conclusions which have no foundation in historical facts. Take, for example, Karl Marx. He was so much obsessed with the economic factor that he blieved that history was the product of this single factor. He maintained that political institutions, art, literature, etc. were all determined by the economic factor. Later researches have however, proved that history is determined by a large number of factors (such as religion, geography, sentiments, etc.), and the economic factor is only one of the factors.

The **Right Method.** All the methods mentioned above have their own merits and demerits. The right method of political investigation is that all these methods should be combined. A judicious blending of all these methods would correct their defects.

POINTS AT A GLANCE

In the study of Political Science help may be obtained from the following methods :

1. *Experimental Method.*
2. *Historical Method.*
3. *Comparative Method.*
4. *Method of Observation*
5. *Philosophical Method*

A proper method of Political Science is a judicious blending of all these methods.

SUGGESTIVE QUESTIONS

1. "When I see a good set of examination question headed by the words 'Political Science', I regret not the questions but the title." Discuss the statement

2. Discuss the scope of Political Science. Is Political Science really a science ?

3. "Politics is an observational and not an experimental science." Discuss.

[Hints. Some writers say that Political Science or Politics is only an observational science. This means that a political scientist can only employ the method of observation to study political institutions. He must directly observe the actual working of political institutions and discover facts. He must have direct contact with politicians and administrators. This method was advocated by Lord Bryce. He employed this method in the preparation of his '*American Commonwealth*' and '*Modern Democracies*'. He collected data by and making an extensive tour of many countries. He personally saw how political institutions functioned in those countries. He had talks with those actively engaged in the governmental work. We may mention here that the method of observation is not an independent method. It is just a part of comparative method which is used for the purpose of studying past and present political institutions. The method of observation compares only the present institutions.

It is true that Political Science is mainly an observational science and that it cannot become an experimental science like Physics and Chemistry. But in a restricted sense it can be said that Political Science is also experimental. Every change in the form of government, every new law passed is a political experiment. A political scientist can make use of these experiments by studying their results.]

4. "The science of politics is an experimental science and therefore, like all other sciences, is a progressive science."

[Hints. This statement is not entirely correct. The fact is that Political Science is mainly an observational science and is experimental only in a limited or loose sense.]

5. "Political Science deals with government". Discuss this statement carefully.

[Hints. It is not a correct definition of Political Science. The main subject with which Political Science deals is the State. It begins and ends with the State, as Garner says. The definition quoted above very much restricts the scope of Political Science. A comprehensive definition of Political Science is that it is the science of the State and government.

6. How far is it true to say that in the present state of knowledge, Political Science far from being a science is one of the most backward of all arts ?

[Hints. Opinions are divided on the point whether Political Science is a science or not. Some writers deny it the status of being a science. They argue that the laws or generalisation of Political Science are not exact and that there is no scope for conscious experimentation in Political Science. There is a good deal of truth in what the critics say. Political Science can never achieve the exactness of Physical sciences like Chemistry and Physics. The reason for this is that Political phenomena are highly complex. They are influenced by the emotions and passions of human being. It is also true that laboratory method of experiment is not possible in Political Science. As a matter of fact, these are the difficulties of every social science. In spite of these difficulties, it is possible in Political Science to deal with its subject-matter in a scientific manner. Like any other science, Political Science collects facts from various sources. After examining systematically those facts, it tries to arrive at certain laws or conclusions. Expriments are also being attempted. Provincial Autonomy (under the Act of 1935) in India and Mahatma Gandhi's *satyagraha* movement were in the nature of experiments. The present Constitution of India is the biggest experiment in democratic government. The results of this experiment are being very carefully studied by Political Scientists. Science simply means systematised knowledge of a particular subject. Political Science has already built up a body of systematised knowledge. It has already laid down certain laws or principles which are generally valid and useful in actual problems of government. So it cannot be denied the status of being a science, though it is not an exact science.

Political Science is an art as well. Science means knowledge and art implies application of knowledge to actual life. Political Science is an art also because many practical lessons can be drawn from it for our guidance. It gives some sort of training to the citizens in public affairs and it helps politicians in the art of running political institutions efficiently.

Thus the statement quoted above is not wholly correct.]

7. What is the utility of studying Political Science?

[Hints. The advantages of studying Political Science are: First the study of Political Science trains our intellect. The State is the most important association of human beings. By studying Political Science we acquire knowledge of the nature of the State, its true ends, the merits and defects of different forms of government and the like. In this way the study of Political Science broadens our vision. Secondly, the study of Political Science helps us to lead the best possible life in the State. It warns us against bad political and economic doctrines. It helps us in judging correctly political, economic and social problems. It tells us what our rights and duties are and how we can become enlightened and constructive citizens. Thus from both theoretical and practical points of view the study of Political Science is useful and important.]

8. Should the science of the State be called Political Science or Political Sciences?

[Hints. Some French writers believe that the name 'Political Science' is not a correct one. They say that there is no single science which exclusively deals with the State. They point out that Sociology, Political Economy, Public Finance, Jurisprudence, etc. also deal with the State. So they conclude that each of these sciences is a political science. But our objection to the use of the plural term is that Sociology, Political Economy, etc. are co-ordinate social sciences dealing with only particular aspects of the State. They are not independent political sciences. Political science is the general science of the State. So we should stick to the singular form—Political Science.]

CHAPTER II

RELATION TO OTHER SOCIAL SCIENCES

Social sciences study the various relationships of man-in-society. Though these relationships may be the subject of different social sciences, the complete isolation of one social science from other is not possible. The life of man may be studied from different aspects but these aspects merge into one another because they are all parts of his personality. One part of his personality cannot be understood without reference to other parts. Similarly, one social science has intimate links with other social sciences and cannot be understood apart from them. Political Science, being a social science is related to its sister sciences like Sociology, History, Economics, Ethics, etc.

4. Discuss the relationship of Political Science to (*a*) Sociology; (*b*) History; (*c*) Economics; (*d*) Jurisprudence; (*e*) Civics; (*f*) Ethics; (*g*) Psychology; (*h*) Geography.

(*V. Important*)

(*a*) **Political Science and Sociology.** Sociology is the general science of society and makes a study of the fundamental Principles underlying the social relations of man. Its scope is wider than that of Political Science. But how? First, it deals with man in all his social relations—political, economic, religious, cultural, etc. Political Science, on the other hand, is the science of the State and government. It studies man in his political relations. Secondly, Sociology deals with all communities, organised or unorganised. It studies the origin and development of human groups, their various forms, customs, languages, beliefs, etc. But Political Science deals only with the State—an organised society.

There is one more difference between Political Science and Sociology. Political Science studies the State 'as it ought to be' and as such is also a normative science. It deals with idea's and theories and seeks to determine the ideal form of political organisation. Sociology has no such normative aspects. It studies the social phenomena as it is or as it has been.

In spite of these differences, the relation between the two is very intimate. Political Science studies the political aspect of social life. But human life is an integrated whole and the political cannot be completely divorced from the social. Therefore, the boundaries of Political Science and of Sociology must overlap. Sociology has made a distinct contribution towards understanding the origin and nature of political institutions. Political Science gets its data from the facts and conclusions of Sociology. Conversely, Sociology is indebted to Political Science for the influence of political ideals on the growth and development of social institutions. For example, democracy has given an equal status to man and woman and has thus changed the entire character of their mutul relationship.

Because Sociology is the general science of society and studies all types of social relations, it should not be thought that the various social sciences are its parts and it is their sum total. Their relation can be better understood if we treat Sociology as the mother social science which studies the fundamental laws of human relationship. Other social sciences are its differentiations. They catch hold of different aspects of social life whether political, religious, cultural or economic and make their specialised study, taking for granted the laws or principles of human relationship as arrived at by Sociology. They have their individualised fields of study and are distinct from Sociology. Like the grown up daughters of one mother, they have formed and are looking after their own separate families.

(*b*) **Political Science and History**. Rise and fall of kingdoms and empires, the life of their peoples, the nature of their governments, their laws, etc. form the subject-matter of History. The relationship between Political Science and History has been very admirably summed up by Prof. Seeley who says: "History without Political Science has no fruit and Political Science without History has no **root**".

This terse saying of Prof. Seeley means that History is a source of a very useful raw material from which the political scientist draws his conclusions and generalisations. Political Science is thus rooted in History. A political scientist working in the laboratory of History studies past political events and institutions. The works of historians form a vast reservoir of material. A political scientist can analyse that material into meaningful patterns. Out of this material he extracts permanent principles governing political life. Examples: History teaches a political scientist that people who have no share in political power also have no share in the benefits of power. Hence the conclusion of Political Science that democracy with all its weaknesses is the safest if not the best form of government. Again, History tells a political scientist that poverty of the people and tyranny of the rulers breed revolutions. Hence the conclusion of Political Science that by giving freedom to the people and raising their standard of living the chances of violent revolutions can be minimised. Because of this intimate relationship between the two Lord Acton compares Political Science to the grains of gold lying deposited in the streams of History.

On the other hand, history also owes much to Political Science. Past events can be understood only if they are placed in a proper perspective, and the nature of political institutions and the principles governing them are known. Otherwise History will lack all coherence and become a disjointed narration of events. It has been rightly said, "History fades into mere literature when it loses sight of its relations to Politics". History can, therefore, be "fruitful" only with the help of Political Science.

We can, thus, say with Garner that "to fully comprehend Political Science in its fundamental relations, we must study it historically and to interpret History in its true significance we must **study it politically**".

Although a close relationship exists between the two, they should not be considered as identical. Political Science derives its material not only from History, but from other social sciences as well, f r example. Economics, Ethics, Psychology, etc. Moreover, its interest is just selective only. Not all of History is useful for Political Science. Much of it—like the History of art, of language, of inventions, of fashions, etc.—is of little value to Political Science. Let us take the example of the Tudor period in English History. A political scientist is interested in knowing the factors which contributed to the establishment of Tudor despotism. But he does not bother much about the marriages of Henry VIII.

In the same manner, a historian may bring out the political implications of past events, but he is not concerned with philosophical and speculative theories of Political Science. History is a descriptive science and deals with what has been. Therefore, political theories based on ethical and psychological foundations do not have much use for it.

As such, we can say that Freeman's epigram, 'History is past Politics and Politics is present History' does not tell the whole truth. The two sciences are closely related no doubt but their status as separate subjects should not be forgotten.

(*c*) **Political Science and Economics.** The task of finding food, clothing and shelter takes up the greater part of the energy of man. Economics is concerned with the activities of man in regard to production, consumption, distribution and exchange of wealth or commodities, while Political Science is the science of the State and government.

Although Political Science and Economics have different spheres of study, a close relationship has always existed between them. Indeed, Economic was regarded as a branch of Political Science by earlier writers; its field was not differentiated from that of Political Science. Many of the political classics discuss topics that would be nowadays regarded as the province of Economics. Aristotle's 'Politics' and Locke's 'Second Treatise on Civil Government' are examples of such classics.

Political and economic problems exert considerable influence on each other. How?

1. The peope expect the government, the machinery of the State, to improve their living conditions. It, therefore, lays down conditions for production and distribution of wealth. Its policies and laws affect the economic life of the people. Taxation laws, tariff laws, nationalisation of industries, regulation of private firms, etc are instances where governmental policies materially affect the economic conditions of the people. The economic life of a community is influenced a good deal by the fact whether the government is democrat c or aristocratic. An aristocratic government will legislate or adopt economic policies aiming at the benefit of property owners. It is rightly said that economic life is conditioned by political institutions and ideas.

2 On the other hand, political ideas and movements, institutions and events are themselves influenced by economic ideas. The

economic theories of Karl Marx, for example, have profoundly affected political ideas and movements in the world. Under the influence of his teachings, Communists today preach class war and aim at the overthrow of governments, which they call capitalist governments, by force. They want to establish the dictatorship of the proletariat (workers). The economic theories of Karl Marx have divided the world into two hostile camps. Economic conditions prevailing in a country affect the nature of political institutions. Take, for example, democracy. Democracy cannot be genuine and effective if the masses are miserably poor and a few persons are extremely rich. Experience has shown that those who have economic power also have political power and that money will always find its slaves and hirelings whose minds are in their stomachs. The functions of the government of an agricultural country must differ from those of the government of an industrialised country. The origin of many wars and revolutions cannot be explained without studying their economic causes. In short, political ideas, movements, institutions and events cannot be understood without an intelligent consideration of their economic foundation. The political order is interwoven with economic threads. As Physics cannot be studied without Mathematics, Politics cannot be understood without a good knowledge of Economics.

(*d*) **Political Science and Jurisprudence.** Jurisprudence is the science or study of law. The connection of Political Science with this is, in a way, more intimate than with other social sciences. Some writers regard Jurisprudence as a branch of Political Science. It is, however, studied as a separate branch of knowledge because of its vast scope and intricate character. It is a specialised study of law.

Human beings have to obey certain rules or laws if they want to have peace and order. The relation between Political Science and Jurisprudence is clear from the fact that it is the State, the subject of Political Science, which provides the machinery through which law operates. Legislation today is an embodiment of the political principles which those in control of the State wish to promulgate in a form binding upon all. The law regarding property and conditions of labour of a socialist State will be quite different from that of a capital State. The constitutional law of a democratic State and of a totalitarian State lie poles apart. So, the study of law and the study of the State cannot be separated from each other.

What is the ultimate source of law? What is the sanction behind law? What is the relation between law and morals? Should an individual resist an unjust and oppressive law? Has he a legal right against the State? What should be the relation between the executive and the judiciary? These and other questions come within the range of political theory. A political scientist seeks, therefore, the help of Jurisprudence since no study of human society and institutions can be alien to him. Jurisprudence throws a good deal of light on all these questions. It studies the nature of law, its development and its true relation to the life of the people. It is the basis of law as it has been, as it is and as it ought to be. It has profoundly influenced political speculation and practice and actual miadnistration of justice.

(*e*) **Political Science and Civics.** Political Science or Politics is very closely connected with Civics. Even the origin of the words 'Politics' and 'Civics' show how intimately these two sciences are related to each other. The Greeks and the Romans were the first people who developed a vigorous political life in their miniature States—the City-States. They used to live in cities and every city was a State by itself. The words 'Politics' and 'Civics' are derived from *Polis* and *Civitas* respectively. *Polis* in Greek means a city or City-State and the word *Civitas* conveys the same meaning in Latin. So, originally both Politics and Civics meant a study of the public affairs in a City-State.

With the emergence of territorial States, the two sciences have tended to acquire a different meaning, though even today they cover a good deal of common ground. Political Science is the science of the State. It deals with its origin and development, its functions and the governmental machinery through which its functions are carried out. It discusses the rights and duties of individuals as members of the State. Civics also discusses these topics, though there is a difference of emphasis. Politics or Political Science, for example, emphasises the rights of citizens while Civics lays more emphasis upon the duties and responsibilities of citizenship. Political Science pays particular attention to national and international affairs, but Civics is more concerned with neighbourhood problems. This means that Civics retains a good deal of its original association with city affairs, while Political Science or Politics has almost given up its earlier connection with city-life. Anyhow, the difference between the two sciences is one of emphasis rather than of subject-matter. That is why some writers call Civics as elementary Politics.

One more point may be noted. Civics is more practical than Political Science. Political Sience discusses how government functions and should function, while Civics tries to create the right type of citizens. The aim of Civics is more practical than that of Political Science.

(*f*) **Political Science and Ethics.** Ethics is a study of the standards or ideals of rightness and wrongness, good and evil involved in human conduct. It tells us what men ought to do.

There exists a close relationship between Political Science and Ethics. Plato and Aristotle bound the study of Political Science close to that of Ethics. Political Science deals not only with the State as it has been or as it is, but also as it ought to be. This means that Political Science is also a normative science. It seeks to prescribe principles and organise institutions to regulate the conduct of individuals with a view to promoting their moral life. It deals with many questions that have a moral aspect. What is the true end of State ? What should be the functions of government ? What rights should an individual enjoy? Is it right for a State to ignore its international obligations ? All these are political questions, but they also touch Ethics. To quote Kant, 'true Politics cannot take a single step forward unless it has first done homage to morals.'

Machiavelli and his followers hold that Political Science has no connection with Ethics. The Machiavellians prefer to sever the link between Political Science and Ethics and propose the rule of expediency as the guiding principle of statecraft. They are of the opinion that in the affairs of the State there is but one test by which the character of an action can be judged—its results. If the results are good, the action cannot be called wrong or bad. The end justifies the means.

But this view is wrong. A State should be guided by expediency as well as by moral standards. Political Science divorced from Ethics is too narrow and it degenerates into the selfish game of power-politics. It is dangerous to separate the political ideals from the moral ones.

(g) **Political Science and Psychology**. Psychology is the science of the human mind. It studies the mental phenomena of thinking, feeling and willing and seeks to arrive at generalisations regarding them.

Political Science is the science of the State which is a human association. It is, therefore, natural that an intimate relation should exist between political Science and Psychology. As a matter of fact, almost all social scientists are now stressing the necessity of the psychological approach to the study of human affairs. We may mention here the names of Graham Wallas, McDougall, Durkheim and Ross. Human nature plays a very important part in the creation and working of political institutions. Political Science has received a good deal of help from Psychology in understanding the origin and nature of the State and Government. Political parties are largely psychological in nature. Psychology, particularly social Psychology, dealing with group mind and group behaviour, has much to offer to a political scientist. Laws and theories about political conduct that ignore psychological factors are apt to be defective.

Again, for the stability of government, it is very necessary to know how the mind of the people works. Garner says: "Government to be stable and really popular, must reflect and express the mental ideas and moral sentiments of those who are subject to its authority". A successful politician must be a good student of human psychology and a political scientist must acquire a good knowledge of the working of the human mind if he wants to understand fully the political relationships in which an individual enters. We will not be wrong if we say that Psychology should form the basis of all social sciences—sciences that deal with the problems arising as a result of man's living in society.

(h) **Political Science and Geography**. Political Science can obtain much valuable material from Geography which is 'the study of the earth as the home of man.' All human groups occupy space on the earth. The State, the subject of Political Science, is 'a people organised for law within a definite territory', Geographical conditions and factors—climate, soil, rivers, mountains, etc.—mould the life and character of the people. Hence, they influence their political life and institutions. Take the example of England. She is a

great naval Power because of her geographical position. The City-States of ancient Greece—a country broken up into numerous valleys and islands by the hills and the sea—grew mainly because of Greek geographical conditions. Not unnaturally, the term 'Geopolitic' is applied to the studies that unite these two fields— political life of a country and its geography.

The relation between Political Science and Geography is thus quite clear. But we must be careful about one thing. We must not say that only geographical conditions mould the political life of the people and their institution. Some writers have made this mistake. Rousseau, for example, says that warm climate gives birth to despotism' cold climate leads to barbarism and only moderate climate helps in the establishment of good government. This may not always be true. Human will and wisdom are much more powerful than geographical conditions and factors

POINTS AT A GLANCE

(a) **Political Science and Sociology.** *Sociology is the general science of society and studies the fundamental principles of all types of social relations Political Science is concerned with only one form of society-the political society or State. The two are inter-related because the political aspect of man's life cannot be isolated from the social one. Sociology is a very useful source of information for Political Science.*

(b) **Political Science and History.** *Political Science is rooted in History which provides data for its study. But it takes help only from Political History. History is also indebted to Political Science. It takes help from Political Science f r interpreting correctly historical events.*

(c) **Political Science and Economics.** *The economic life of a country is greatly influenced by political ideas and institutions. On the other hand, economic conditions influence political ideas, institutions and events.*

(d) **Political Science and Jurisprudence.** *Jurisprudence is the science of law with which the State is mainly concerned. Hence Political Science cannot be divorced from Jurisprudence.*

(e) **Political Science and Civics.** *Originally both meant a study of the public affairs in a City State. With the passing of time and the development of territorial State, they have tended to acquire a different meaning. But even today they cover a good deal of common ground. Both deal with the State, government rights and duties of citizens, etc But there is a difference of emphasis between the two. National and international problems, theories of the origin of the State, of the nature of law, etc., bulk large in Political Science ; Civics lays more stress on the affairs of the neighbourhood and on the rights and duties of citizens.*

(f) **Political Science and Ethics.** *Political ideas cannot be completely divorced from moral ideas. Laws of the State should be in -mony with the moral ideas of the people, The activities of the State*

are judged by ethical standards. Hence the relation between Political Science and Ethics is very intimate.

(g) **Political Science and Psychology.** *Political institutions are the product of human nature. Political Science, therefore, must respect Psychology to understand fully the political relationships into which an individual enters.*

(h) **Political Science and Geography.** *Geographical factors affect the character and life of the people. Naturally, they influence their political life and institutions also. The two sciences are therefore related to each other. The term 'Geopolitics' is applied to the studies that unite these two fields.*

CHAPTER III

THE STATE

Outline

Definition of the State
Its Essential Features
State and Government
State and Associations
State and Nation

It has been pointed out that the central theme of Political Science is the State. As students of Political Science, we should be very clear about the meaning of the term 'State.' In this chapter, we propose to discuss this term in detail. We shall discuss the essential elements of the State, and distinguish it from government, society, nation and other associations.

5. Attempt a definition of the term 'State' and describe its essential features or elements. Are Punjab, United Nations Organisation and Canada States? *(V. Important)*

The State occupies the most important place among all social institutions. It is linked up with the very basis of a smooth, ordered and progressive social order. It is the keystone of the social arch. Without it, there would be chaos and confusion in society.

But what exactly is the State? It is a term which is very loosely used by people. It is used in different senses. Some use it in the sense of government. We hear a good deal about 'State action' which actually means governmental action. The State and government are not synonymous terms. Government is only the machinery of the State. Or "it is the organisation of the State which, in addition to administrative agencies, normally, consists of three great branches, executive, legislative and judicial". It is through this machinery that the will of the State is formulated, expressed and realised. In the words of Garner "the government is an essential organ or agency of the State, but it is no more the State itself than the board of directors of a corporation is itself the corporation".

Again, the units of a federal State or federation are also called States. For instance, the constituent units (Punjab, Uttar Pradesh, etc.) of the Indian Federation are called States. But they are not States in the scientific sense of the term. One of the essential features of the State is sovereignty (or independence) which the units of the Indian Federation lack. Punjab is not a State in the sense in which India as a whole or Britain or France or the Soviet Union is a State. Similarly, the U.S.A. as a whole is a State but its units are not States though they are called like that.

Some people use 'State' and 'nation' as interchangeable words. In reality, however, they are not synonymous. The meaning of the

term 'nation' is wider than that of the State. There can be no nation if the people are not bound together by a sentiment of 'oneness' which may be the result of common racial descent or common language or common religion or any other such factor. But that is not always true in the case of the population of a State. Austria-Hungary was one State before the first Great War, though her people did not possess a sense of national unity. Thus the term 'State' is distinct from the term 'nation.'

STATE DEFINED

In what sense, then, is the term 'State' used in Political Science? As a concept of Political Science, the State has four essential characteristics or elements. They are : population, territory, government and sovereignty. A good definition of the State must point to its essential elements. We can define the State in the following words :

The State is a people who permanently occupy a definite territory, are independent of external control and possess a government which has control over all individuals and groups within its boundaries

We also quote here a few well-known definitions of the State. Prof Garner says : "The State is a community of persons, more or less numerous, permanently occupying a portion of territory, independent of external control, and possessing an organised government to which the great body of inhabitants render habitual obedience." This is considered to be a good definition of the State.

"The State is a people, permanently occupying a fixed territory, bound together by common laws, habits and customs into one body politic, exercising through the medium of an organised government independent sovereignty and control over all persons and things within its boundaries, capable of making war and peace and of entering into all international relations with the communities of the globe" (*Phillimore*—an English jurist).

President Woodrow Wilson has given a very brief definition of the State. He says : "The State is a people organised for law within a definite territory. This definition is not complete as the word 'sovereignty' does not occur in it.

Laski defines the State as a 'territorial society divided into government and subjects and claiming within its allotted physical area, supremacy over all other institutions.'

FEATURES OR CHARACTERISTICS OR ELEMENTS OF THE STATE

Let us now discuss the features—population, a fixed territory, government and sovereignty—of the State in some detail

(*a*) Population

The State is a human association. It is impossible to think about the State having no population An uninhabited tract of land cannot be called by this name. There must be a certain number of people The question arises : What should be the size of this population? The answer to this question is that no minimum or maximum limits can be laid down regarding

population. Early Greek philosophers like Plato and Aristotle mentioned certain numerical limits, but a study of the existing States reveals that no such absolute limits can be fixed. The population of Israel, for example, is about 16 lakhs while that of India is over 43 crores. In the Soviet Union, there are over 19 crores of people. The population of Great Britain is about 5 crores. All this shows that modern States vary a great deal in population. So we can make only general observations regarding the population of the State. The population should neither be too large, nor too small and that it should be in proportion to the size and resources of the territory. The population should not be larger than its resources can support it. Nor should it be very small, because in that case a State will not be able to defend itself against foreign aggression or to develop its resources to the fullest extent.

The population of a State may be viewed as citizens, subjects and aliens. Citizens are generally those persons who are members of the State and enjoy full civil and political rights. Subjects are members of the State but are not active citizens. They are denied political rights. Aliens are foreigners. They enjoy some civil rights, but have no political rights.

(b) Territory

The State must have a definite and fixed territory. A nomadic tribe wandering from one place to anther cannot constitute a State. The State did not come into existence so long as human beings, living in groups, moved about from place to place. The State emerged when human groups occupied particular geographical areas. The Jews who were scattered all over the world did not form a State till they settled down in Israel after the partition of Palestine. This element of the State distinguishes it from other associations. The State is a territorial association. Its membership is confined to the people living in its territory. This does not apply to other associations whose membership and organisation may cover the whole world even.

The territory of the State includes not only the land within its jurisdiction, but also the natural resources (forests, mines, oil, etc.), lakes and rivers and the marginal sea (which extends, according to an international convention, to three miles off the shore). The air space above the land is also part of the territory of the State. Aerial space has become very important today because of the development of aviation and radio telegraphy.

Like population, it is not possible to prescribe the territorial limits of a State. The existing States greatly vary in size. The Indian Union for example, covers an area of over 1,100,000 square miles while the area of Pakistan is about 360,000 square miles. Israel is only 8,000 square miles in area. The Soviet Union occupies one-sixth of the land surface of the globe. It is thus impossible to lay down any hard and fast rules regarding the size of a State.

It is, however, true that the strength and prosperity of a State depend a good deal on the size of its territory. Take, for

example, the U.S.A. and the Soviet Union. They are the most powerful States today. They are so because they possess a huge territory and rich natural resources. In these days of A-and H-bombs, small States cannot effectively fight foreign aggression. The trend towards national self-determination has increased the number of small States in the world, though military and economic [illegible] larger political units. [illegible]

It may be mentioned here that the strength and greatness of a State do not always depend on the size of its territory. Its geographical position, climate and the character of the people also greatly contribute to its powers and prosperity. Britain is a small State so far as its territory is concerned but she is one of the biggest Powers in the world.

(c) Government or Organistion

By government is meant the agency or organisation through which the will of the State is formulated and expressed. Through this machinery the State carries on its work and realises its purposes. A number of people, occupying a portion of territory, do not constitute a State until they have established an organisation which can ascertain, formulate and express their will. The governmental organisation may be simple and its functions few and restricted, but it must be there to form a State. The term 'government' is used here in a wide sense. It does not mean only the executive branch. When we speak of Mr Nehru's Government, our reference is to the executive branch only. The wide meaning designates the whole set of institutions through which some command and others obey. It consists of all those who are concerned with making, administering and interpreting law in the State. This means that it consists of all the legislative, executive and judicial organs in the State.

(d) Sovereignty

Sovereignty is another important feature of the State. It is this feature which distinguishes the State from all other associations. People inhabiting a particular territory and having a government do not necessarily form a State. Sovereignty has two aspects—internal and external. Internal sovereignty means supremacy of the State over all individuals and associations of individuals within the area of its jurisdiction. Everyone there must obey laws of the State and only the government is competent to apply physical coercion. External sovereignty of the State implies that it is free from the control of any other State or [illegible] authority and that its territory and population form no part of [illegible] political unit. The separate 'States' of India are not States in [illegible] strict sense of term since each is part of the [illegible] political [illegible] called the Rep[illegible] of India. The State enfor[illegible] its authority within its borders and [illegible]tains its independence [illegible] States through its government.

International law spe[illegible] about one more aspect of the State. [illegible] it, a State must be recognised by other States.

Recognition is generally given by other States when a State has the power and will to fulfil its obligations to others. But here we are not much concerned with this aspect of the State.

We may mention that some writers make a distinction between the idea and the concept of the State. The idea of the State implies a State as ought to be—a perfect State. It presents a picture to our mind of a State which is in harmony with our ideas of perfection. Such a State does not exist in actual life, but political activities are directed towards it. The ideal has varied from age to age. Some of the modern writers believe that a World-State would be a perfect State. In such a State sovereignty would reside in the whole of humanity organised as a single State. On the other hand, the concept of State refers to the common attributes of the States which actually exist at any particular historical period. In the foregoing analysis, we have dealt with the State as it actually exists and not it as ought to be.

It will not be out of place here if we say something about the general nature of the State. The State is a human creation. It has come into existence because of the social nature of man. It is a unique association of man in the sense that it wields the monopoly of coercive power. It is the guardian of social order and promotes common interests and common purposes. It is the friend of the individual as it creates those conditions which are essential to the development of human qualities. It is an external institution in the sense that it creates only external conditions which are needed to nourish and promote the inward impulses for peaceful and harmonious social relationships.

IS PUNJAB A STATE ?

We know that the essential characteristics of the State are population, territory, government and sovereignty. The presence of all the four attributes is necessary for the formation of a State. India is a federation consisting of a number of units. Punjab is one of the units. It is true that Punjab and other constituent units of India do enjoy autonomy in some specified matters but they are part of a bigger political unit—the Indian Union or the Republic of India—and lack external sovereignty or freedom from outside control. Most of the subjects like foreign relations, defence, currency, etc are under the control of the Centre. Punjab and other units of the Indian Federation have no separate entity in external affairs. Punjab is not a State from the point of view of political theory. India as a totality constitutes a State. Similarly, Maryland, California, and the forty-eight other units of the American federation are not sovereign and as such do not qualify as States.

U.N.O.

The U.N.O. is a voluntary association of States. The member-States retain their internal as well as external sovereignty. The U.N.O. possesses neither territory nor real supremacy over member-States. It is only an instrument to promote inter-State co-operation. It is not a State from the viewpoint of political theory. The League of Nations established after World War I was also not a State.

CANADA

Canada is a Dominion of the Commonwealth. A Dominion enjoys absolute autonomy in all internal affairs and freedom in external affairs. The British Government cannot impose its foreign policy on it, against its wishes. All Dominions—Canada, Australia, New Zealand, Ceylon, etc. are independent members of the U N O. We will not be wrong if we describe these Dominions of the Commonwealth as States for all practical purposes.

POINTS AT A GLANCE

1. The State is a people, permanently occupying a definite territory, independent of external control, and having a government which has control over all individuals and groups within its boundaries.

2. The essential features or characteristics of the State are population, territory, government and sovereignty. It is a human creation. It is a unique institution because it alone can use force. It is an external institution because it creates only external conditions which are needed to establish orderly social relationships.

*3. Punjab, which is a unit of the Indian Federation, is not a **State because of sovereignty.***

*4. The U.N.O. is a voluntary association of independent States. It possesses neither territory nor sovereignty over member-States. **It is, there, not a State.***

*5. Canada is a Dominion of the Commonwealth. Great Britain does not exercise any control over its affairs. It is therefore a State **for all practical purposes.***

6. Describe as accurately as you can, the distinction between the terms 'State', 'Government', 'Society', 'Association' and 'Nation.' (*V. Important*)

(*a*) State and Government.

In ordinary language, the State and government are often used interchangeably, just as the governing body of a university is generally spoken of as the university. In fact, these two are different terms.

The *first* difference between the two is that the State is wider than government. It consists of the whole body of people—the rulers as well as the ruled. But government includes only a relatively small proportion of the population. "When we speak of the State" says MacIver, "We mean the organisation (or association) of which government is the administrative organ .....A State has a Constitution, a code of laws, a way of setting up its government, a body of citizens. When we think of this whole structure we think of the State." Government is only part of the State. It is only the servant of the State. It is only a dictator or an absolute monarch who makes no distintcion between the two. If the State and government are identified with each other, the part becomes the whole and the **servant, the master!**

Secondly, sovereignty is an attribute of the State, not of government. Government exercises only delegated powers. It has power because the State grants its powers.

Thirdly, the State possesses the quality of permanence while its government may change. In a State, government may change through a revolution or a constitutional process, but

the State continues to exist. The State of France endured although the French Revolution produced a big change in the form of government. In Great Britain, political power may change hands between the Labour and the Conservative Parties, but the State of Great Birtain will continue. The rights and duties of States under international law remain the same even if their governments change. Governments may change, but States are 'immortal.' Only as the result of conquest by other States can the permanence of States be destroyed.

Lastly, governments may differ in their forms, but all States are alike as far as their essential attributes (population, territory, government and sovereignty) are concerned.

(b) State and Society

Man is a social animal. He cannot live alone He is compelled by his nature and necessities to live and work among others While living in the company of others, he develops many relationships, political, economic, cultural, etc. Society stands for all these relationships. Society, as the term is used here, is not a name for a particular group of persons organised for some purpose such as the Red Cross Society or the Dramatic Society Such groups are given the name of associations. Society is a term which stands for the entire network of social relationships between individuals, or between groups or between groups and individuals. Take, for example, the Indian society. It denotes the total of social relationships in India. The differences between the State and society are as follows :

1. Society is much wider than the State. While society embraces the whole life of man, the State is concerned with its political aspect only. Society stands for innumerable human relationships, *e.g.*, religious, economic, cultural, etc , which cannot be possibly covered by the State. MacIver says : "There are social forms like the family or the church or the club which owe neither their origin nor their inspiration to the State ; and social forces like custom or competition, which the State may protect or modify, but certainly does not create ; and social motives like friendship or jealousy which establish relationship too intimate and personal to be controlled by the great engine of the State." The State is a society looked at from the legal point of view only. Men are much greater than citizens or subjects Their loyalty to the State does not exhaust all their social obligations.

2. Society has no territorial reference ; it refers to man alone, and not to his environment It may be confined to the home or may extend to the whole world. On the other hand, the State cannot be thought of without a definite territory. Territory is one of its essential characteristics

3. Society and organistation do not always go together. Society covers both organised and unorganised communities. The nomads who wander from one place to another and are a loose collection of people, can comprise a society. Moreover, the range of relationship in society is so wide and comprehensive that it cannot be controlled by any organisation. But the State and its

organisation, the government, go hand in hand. Government is one of the essential attributes of the State and it looks after the fulfilment of its purpose.

3. Society lacks sovereign power. The State is endowed with sovereignty, i.e., the capacity to enforce its authority on those who violate its laws. To this end, it may also use coercive power. Society, however, lacks this sovereign power to compel obedience [illegible]. Its rules are known as customs, which may or may not be obeyed. These sanctions are moral persuasion and public opinion and sometimes these may prove even stronger than force. [illegible] "The area of society is voluntary cooperation, its energy that of goodwill and its method that of flexibility, while the area of the State is rather that of mechanical action, its energy force and its method rigidity".

It will thus be evident that the State may be very necessary to preserve social order. But the distinction between the State and society cannot be ignored. The political is just one aspect of social life and should not be allowed to dominate it. Ignoring of this distinction leads to suppression of individual liberties and gives rise to totalitarianism.

(c) State and Other Associations.

In the words of MacIver, "An association is a group of persons organized for the pursuit of an interest or a group of interests in common." We know that man enters into relationship with other individuals for the fulfilment of his needs and desires. He finds from experience that there are certain common needs which could be realized better if pursued in company and on some cooperative basis. So men come together and form associations.

Thus, in society we see a large number of associations which men organise for the promotion of their common needs. These common needs may be social, political, economic, cultural, religious or spiritual in nature. The family, the church, clubs, trade unions, universities, and many more such groups can be cited as examples of associations. Each of these associations exists for the realization of a definite purpose. For example, the family looks after the protection, well-being and education of its members; the church promotes their spiritual and religious development; clubs satisfy a variety of social needs of individuals; trade unions protect the interests of workers.

Considered in this light, the State is also an association no doubt, but it differs from other associations in many respects. It is very necessary to know these differences for a proper understanding of the nature of the State.

(1) The chief distinguishing mark between the State and other associations is this: While membership of the State is compulsory, that of other associations is optional. An individual is born into a State, and continues to be its member till he dies. If he renounces citizenship of one State, he must become a citizen of another. It is true that the troubles of the present age have produced a small

class of unfortunate individuals known as 'stateless persons'. But that is an extraordinary phenomenon and there is no doubt that such persons have not chosen this condition of life voluntarily. Membership of other associations is a voluntary affair. A person can join an association or resign its membership at his own sweet will and pleasure.

(2) The State has always a territorial reference. It carries on its activities within a fixed and definite territory, and over all its members. Other associations are not bound by such territorial limits. They may carry on their activities within a small area like a village or on an international scale, transcending national boundaries. For example, an association may be formed to look after the sanitation needs of a locality. On the other hand, the Roman Catholic Church claims allegiance from its members in all the corners of the world.

(3) An individual can be a member of one State only at a time. A person cannot become a citizen of both India and Pakistan simultaneously. He is, however, not restricted in this manner as regards membership of other associations. He may join any number of associations depending upon his aptitude and convenience. At one and the same time, he may belong to a political party, a religious association, recreational club, a literary society (association) and so on.

(4) The State possesses sovereignty and can therefore use coercive power to compel obedience to its laws. It can use force and inflict punishment. This sanction of force is a prerogative of the State only. It has even the right to dissolve associations if it finds that they are indulging in immoral or disruptive activities in society. If other associations use force to get their rules obeyed, they will come in conflict with the State. Moreover, because of the voluntary character of their membership, associations cannot possibly use force against their members. They can use the instrument of moral persuasion only against a recalcitrant member or may deprive him of his membership.

(5) The purpose (moral and material welfare of its citizens) of the State is wide and general. For its promotion, it may engage in any number of activities. Modern States perform a wide range of functions which may be economic, cultural, recreational or educational in character. But the purpose of other associations is specific and limited. An association formed for the promotion of education will not ordinarily take part in political activities. It is possible that its members while agreeing on a specific educational policy, may be holding divergent political views. Therefore, if it interferes in politics, its members may be driven apart.

(6) The State is a permanent association. But most of the other associations are not permanent in character. They are formed for the promotion of specific objects and disappear as soon as they are achieved. An association formed for the removal of illiteracy will have no justification to exist after literacy has been achieved.

(d) State and Nation

To know the difference between 'State' and 'nation', it is necessary first to distinguish between 'nation' and 'nationality'. The term 'nationality' refers to a group of people who feel among themselves a special sense of unity. In other words, they have a sentiment of oneness. This sentiment of oneness makes the people feel that they have common interests in life and that they are quite distinct from other people in the world. Lord Bryce defines nationality in these words: "A nationality is a population held together by certain ties, as, for example, language and literature, ideas, customs and traditions, in such wise as to feel itself a coherent unity distinct from other populations similarly held together by like ties of their own." Thus the feeling or sentiment of 'oneness' is the result of many factors, e.g., common habits and customs, common language, common religion, and so on. It is true that each of these factors facilitates the birth of nationality, but none of these is indispensable. Switzerland speaks three languages, still her people feel among themselves a special sense of unity.

When a nationality has political aspirations, it becomes a nation. There can be no nation without nationality, but for the making of a nation political aspirations are necessary. A nation comes into existence when a group of persons inspired by the sentiment of nationality aspires to establish or establishes itself as a State. Lord Bryce defines a nation in the following words: "A nation is a nationality which has organised itself into a political body either independent or desiring to be independent." Thus the word 'nation' has political significance.

In popular language, the terms 'nation' and 'State' are used indiscriminately. Population, territory, government and sovereignty are the essential features of the State. If these features are present, the State is present. It is not necessary that people who constitute the State should have the feeling of 'oneness'. Austria-Hungary was one State before World War I, though her people were psychologically not 'one'. A State may be inhabited by people belonging to different nationalities. If the people who constitute the State also have the feeling of unity among themselves, the State and nation coincide with each other and we have a Nation-State.

Moreover, an independent government is an essential attribute of the State, but it is not indispensable for the nation. To form a nation it is enough if the people (nationality) have a keen desire to have an independent government of their own.

POINTS AT A GLANCE

State and Government

1. *The State is the entire community while government consists of a fraction of the total population.*

2. *Sovereignty is an attribute of the State, not of government though it is the government which exercises authority on behalf of the State.*

3. *The State is permanent. Government may change.*

4. *Governments may differ in their forms, but all States are just the same so far as their essential features are concerned.*

State and Society.

1. Society designates the entire network of social relationships. Its scope is, therefore, wider than that of the State.

2. Society has no territorial reference. The State is territorial in character.

3. The State possesses an organisation called government. Society may be organised or unorganised.

4. Society does not possess sovereign power. The State has sovereignty and can use force against those persons who violate its laws.

State and other Associations.

1. Membership of the State is compulsory and of other associations voluntary.

2. The State is a territorial association. Other associations may not be bound by territorial limits.

3. An individual can be a member of one State at a time. He is not restricted in this way with regard to the membership of other associations.

4. The State possesses sovereignty and can use force. Other associations lack this power.

5. The purpose of State is more general than that of other associations.

6. The State is a permanent association. Other associations may prove short-lived.

State and Nation.

Generally, the two terms are used interchangeably. In fact, they are different from each other. There can be no nation if the people do not have a strong sense of unity which is often the result of common language, common religion, common customs, traditions, etc. A nation is thus a homogeneous group. But to constitute a State, this type of homogeneity is not essential.

CHAPTER IV

THEORIES REGARDING THE NATURE OF THE STATE

Outline

Organic Theory
Idealistic Theory

In this chapter, we shall discuss two theories with regard to the nature of the State and its relation to the individual. The two theories are the organic or organismic theory and the idealist theory of the State.

ORGANIC THEORY

"Critically examine the organic theory of the State."

Or

"The organic or organismic theory of the State is neither a satisfactory explanation of the nature of the State nor a trustworthy guide to State activity". Discuss. *(Important)*

Statement. The organic or organismic theory of the State deals with the question of the nature of the State. It seeks to explain the relation of the individual to the State. The liberty of the individual is dependent on the nature of this relationship.

The theory considers the State as an organism—a living body composed of different parts, each with its separate function and all working for the good of the whole. The relation between the State and the individual is the same as that exists between the animal or living organism and its parts. The parts of an organism work in harmony with the purpose of the whole. Thus the characteristic of an organism is its complete unity—organic unity. The State also possesses such an organic unity. It is a sort of magnified person. Bluntschli, a German writer, says that the State is the very 'image of human organism'. He goes so far as to maintain that it is masculine in character!

The theory is particularly associated with the name of Herbert Spencer, an English philosopher. He works out a detailed analogy between an organism and the State. Between the two, he points out the following similarities :—

1. **Origin.** The beginning of a living or animal organism is very simple. It begins as a germ. As it grows, its structure becomes complex. During the process of growth, the parts (ears, hands, legs, etc.) become unlike one another. The various parts perform different specialised functions.

The origin and growth of the State follows the same pattern of development as exhibited by a living organism. The State, like a living body, begins as germ (a small wandering horde of people). It grows and becomes more and more complex. A modern State is a much more complicated affair than the ancient State. Previously, all the functions of government, legislative, executive and judicial, were performed by one person or a body of persons. But now they are performed by different specialised organs of government.

2 **Relation of the Parts to the Whole.** Another point of comparison is as regards the relation of the part to the whole. The parts of a living organism cannot exist apart from the main body. The hand, for example, has no existence separate from the body. Similarly, the individual cannot be thought of apart from the State. He finds his fulfilment in and through the State.

3 **Structural Parallelism.** Again, there is a close structural similarity between an organism and the State. A living organism has a regulating system (brain, spinal chord and nerves), a sustaining system (mouth, gullet, stomach and intestines), and a circulating system (heart, arteries and veins). In the State, these systems have close parallels in the governmental machinery, in the manufacturing districts and agricultural areas, and in the internal communications (roads, railways, posts, telegrams, etc.) respectively.

History. The organic theory of the State is very old. Reference to this theory is found in the works of Plato, the Greek philosopher. He compared the State to a magnified individual. He said that the three faculties—reason, courage and appetite—of the individual were similar to the three classes in the State—the rulers, the soldiers, and the economic or wealth-producing class consisting of artisans, traders and agriculturists. Aristotle regarded the State as indispensable for the bare needs of man. The individual, according to him, was a cell in the body-politic (the State). The whole tendency of Greek political thought was to insist on the subordination of the individual to the State. The analogy was a favourite subject of the political writers of the Middle Ages (the period in the history of Europe between the end of the Roman Empire and the Renaissance—about 1000 to 1400 A.D. or in a wider sense, 500 to 1500 A.D.). Coming to the modern period, we find many writers giving much attention to the organic conception of the State. Even the Social Contract writers (who viewed the State as an artificial creation of men) supported this theory. For example, Hobbes (17th century) compared the State to "that Great Leviathan which is an artificial man though of greater strength and stature than the natural". Drawing an analogy between the State and the human body, Rousseau (18th century) said that both possessed 'will' and 'force'. The theory assumed a great prominence at the hands of various German writers of the 19th century. It found favour particularly among the German Idealists. In England, the chief advocate of this theory was Herbert Spencer (1820—1903).

COMMENTS

As long as the comparison between an organism and the State remains an analogy, it is very useful to explain the nature of the State. Gilchrist says, "It points out the intrinsic connection of the individual with the State and the State with the individual." The theory emphasizes the unity of the State and the individual and their mutual dependence. The individual cannot be separated from the State, and, conversely the State cannot be thought of apart from individuals composing it. In this manner, the theory serves as a useful analogy.

The real difficulty arises when the State is identified with an organism. Then, the theory lays itself open to many objections :

First, the parts of a living or animal organism have no consciousness. So they cannot influence the life of the whole. On the other hand, the growth of the State is influenced largely by the conscious actions of its individual members. One great leader like Mahatma Gandhi or Shri Jawaharlal Nehru may change the very character of the State.

Secondly, if a limb is separated from the organism, it will mean destruction of that limb. However, an individual separated from the State cannot be said to be dead.

Thirdly, an organism is concrete, whereas the State is 'discrete'. This means that the different parts of an organism are tied to one another. They have no separate activity apart from the whole. Their whole activity is confined within the organism to which they are tied. On the other hand, the State is discrete. This means that its members are free to move about. Not only that. They can belong to many other associations, such as clubs, trade unions, etc, at the same time. The State does not exhaust the life and activity of its individual members. The difference that the State is 'discrete' whereas an organism is concrete, was admitted even by Spencer.

Lastly, the theory does not provide us with a reliable guide to State activity. It has given rise to three conclusions as to the function of the State :

(*a*) In the hands of Spencer, it became an argument for his doctrine of Individualism. Since the State is 'discrete' it should confine itself to the specific function of internal and external security. It should leave the individuals free to pursue their welfare. It must not interfere in their economic and social life. Spencer thus advocates an extreme form of Individualism.

(*b*) The Idealists, from Plato to Hegel, have drawn quite an opposite conclusion from the theory. They say nothing that affects the part is indifferent to the whole. An organic State, can, therefore, interfere in all human activities. It can reduce an individual to a position of complete subordination. The theory, thus, favours totalitarianism and leads to fascism.

(*c*) An organism grows through blind chemical processes. The organic theory can, therefore, give the impression that we need not take the trouble of developing the State. We might think that some natural forces working in it will help in its growth and progress. This is a very dangerous implication of the organic theory of the State. The State is a human institution. Its development depends on human will and effort. Every individual must play a constructive role in the development of the State and of human civilisation, otherwise life in the State would soon become impossible. It is dangerous to sit politically passive and watch ourselves grow.

In the extreme form, therefore, the organic theory cannot be accepted. As one writer has pointed out, the theory is fanciful, absurd and mischievous. It is "neither a satisfactory explanation of the nature of the State nor a trustworthy guide to State activity."

It is, however, valuable in emphasizing the unity of the State and the mutual interdependence of the State and its members. The State is not a mere collection of individuals without having any unity. Members of the State depend upon one another and their individual welfare is dependent on the welfare of all ; and the welfare of all or common welfare is dependent upon the fact that each individual performs his duties prescribed by the State. Moreover, the biological comparison is useful in indicating that the State has a long and continuous growth just as human beings. It is not possible to create the State just as we would make a machine. So it may be conceded that the State is like an organism but to say that the State is an organism is wrong. In short, in its moderate form the theory deserves consideration from every student of Political Science.

POINTS AT A GLANCE

1. The organic theory explains the nature of the State and compares it to a biological or living organism.

2. Spencer worked out a detailed analogy between them.

(a) Both resemble each other in their origin and growth.
(b) In the case of both, the whole and its parts are inter-related.
(c) There exists a close structural parallelism.

3. The theory in its extreme form has been criticised on various grounds :

(a) The parts of the body possess no consciousness— Individuals in the State have consciousness.

(b) When a limb is separated from the rest of the body, it decays. This is not true in the case of individuals.

(c) An organism is 'concrete' whereas the State is discrete.
(d) The theory is not a trustworthy guide to State activity.

4. The theory is useful in emphasizing the unity of the State and the inter-dependence of the individuals composing it. Moreover, it shows that the State is natural organisation and is the result of a long and continuous growth : it is not a mechanical or artificial creation.

THE IDEALIST THEORY OF THE STATE

8. Examine the idealist theory of the State.

Or

"The State is an entity over and above the people who compose it with a real will and personality of its own." Explain critically the theory of the State embodied in the above statement. *(V. Important)*

Statement of the Theory. The idealist theory is sometimes called the absolute theory, and also the philosophical theory. It is known as the obsolute theory of the State because it subordinates the individual to the State and makes the State absolute and all-powerful. It is called the philosophical theory because it discusses the nature of the State from a philosophical point of view. It is called the idealist theory because it idealises the State and raises it almost to the point of deification.

The best exponent of this theory is Hegel, the German philosopher. He preached an extreme form of Idealism. He puts his views in such an abstract form that his readers begin to feel irritated and disgusted without understanding him. The important **points of his theory are as follows :—**

1. The State has a personality which is different from and superior to the personalities of the individuals composing it.

2. The State has a will of its own which reflects the real will of all the individuals. The State can never act unrepresentatively. Whatever is done by it is an expression of the real will of the individuals. The actions of the State are always right and never wrong.

3. The State is an end in itself, and is provided with the maximum of rights, which, necessarily, in the case of a conflict, override the rights of the individuals. An individual can have no rights which may come into conflict with those of the State.

4. Individuals enjoy real freedom only in the State. Every law of the State enhances individual liberty. Freedom consists in obedience to the laws of the State. Liberty and law are identical. Resistance to the authority of the State is not justified. The State must be given implicit obedience.

5. There is no difference between the State and society. Both are identical. The State is sufficient to satisfy all the social needs of man.

6. The State is the custodian of social morality. Moral principles are not laid down by the conscience of man. It is the State which decides what is moral and what is immoral. This, however, does not imply that the State is in any way bound by moral principles. It is bound neither by the principles of morality, nor by the rules of international law. There is no authority superior to the State, which can lay down rules binding the State to a particular mode of conduct.

In short, Hegel's State is a "God-State, incapable of wrong, infallible, omnipotent, and entitled to every sacrifice which its interests may require of the individual." (*Garner*).

History. The theory is very old. To the Greek philosophers, Plato and Aristotle, the State was an end in itself rather than a means to an end. They believed that the individual could not have interests different from the collective interests of the State. The State could regulate everything.

In England, Green, Bradley and Dr Bosanquet were among the supporters of this theory. They preached a moderate form of Idealism. They never believed that the State was infallible and omnipotent, though they emphasized its importance and majesty. The 'father' of the theory is, however, Hegel, the German philosopher. As we have said above, he preached an extreme form of Idealism. The German Nazis and the Italian Fascists strongly supported this theory. They regarded the State as an end in itself. The individual existed for the State and not the State for the individual. He could be sacrificed at the altar of the State.

COMMENTS

Hegel's Idealism has been subjected to a most searching criticism. It is condemned by some writers as not only false but wicked and dangerous. Some others reject it as glorified nonsense. The main points of criticism are as follows:—

1. It is absurd to say that the State has a personality which is different from and superior to the personalities of the individuals composing it. To say that the State has a personality is but one way of justifying absolutism.

2. There cannot be any synthesis of wills. The real will of the State at a particular time is the will of those who possess political power. It is wrong to say that the State is the embodiment of the real wills of the individuals.

3. It is wrong to say that the State is an end in itself. As a matter of fact, the individual is an end and the State is a means to the enrichment of individual's personality.

4. The State and society cannot be identified. The State cannot satisfy all the social needs of men. Economic, cultural, religious and other associations play an important part in the life of an individual. Such associations constitute society. To identify State and society is to justify totalitarianism

5. No State is above morality. If it is bad for an individual to commit a murder or to commit a theft, it is equally bad for the State to commit aggression. The theory tries to justify the aggressive actions of some of the existing States in the international sphere The Fascists in Italy and the Nazis in Germany made much use of this theory. The theory has dangerous implications in the international politics.

6. The Idealists argue that every law of the state enhances individual liberty. This is wrong There are certain unjust and arbitrary laws which do curtail the liberty of the individual.

Conclusion : The theory is no longer accepted these days. It is true that the individual can develop his personality only in the State. But this does not mean that the State should be given absolute powers and the individual should be sacrificed at the altar of the Sate. Extreme Idealists are the foes of human freedom and progress. "The Hegelian conception was designed to turn the edge of the principle of freedom by identifying it with law; of equality by substituting the conception of discipline ; of personality itself by merging individual in the State ; by erecting the State as the supreme and final form of human association". *(Hobhouse)*.

POINTS AT A GLANCE

1. The idealist theory is also known as philosophical theory and absolute theory.

2. It was first put forward by Greek philosophers, Plato and Aristotle. Hegel is the most important advocate of this theory.

3. Hegel preached an extreme form of Idealism. He made the State something divine, having a real personality, and real will. He completely subordinated the individual to the State.

4. His theory suffers from many defects and the only object of putting forward such a theory is to justify absolutism and totalitarianism.

9. Describe in concrete terms the true nature of the State *(Important)*

The State may be defined as a "community of persons, more or less numerous, permanently occupying a definite portion of territory, independent or nearly so of external control, and possessing an organised government to which the great body of inhabitants render habitual obedience." This definition brings out the essential elements—population, territory, government and sovereignty—of the State. It shows, in the *first place*, that the State is a human association. It came into existence because man is impelled by his nature and compelled by his necessities to lead a group life.

Secondly, the State is a territorial group of of human beings. It is composed of individuals habitually residing on a particular tract of land. This feature of the State distinguishes it from other human associations which may have world-wide membership. Membership of the State is, however, confined to the people living in its territory.

Thirdly the State is an organised group, not a casual crowd. Organisation or government is one of the essential features of the State, though this is also a characteristic of other associations such as a trade union, a church, a club and the like. Some writers say that the terms 'State' and 'government' are synonymous, but this is wrong. Government is simply an essential instrument or contrivance of the State. It is the organisation of the State which normally consists of three organs, executive, legislative and judicial. It is through this organisation that the State carries on its functions and realises its policies and objectives. But 'government' and 'State' are not identical because the latter is the entire community of persons whereas government consists of a fraction of the total population.

Fourthly, the State is a sovereign association. Legally, it is supreme over individuals and their associations within its borders and is independent of any external control. This feature of the State differentiates it from other associations. As the State is a sovereign association, it alone can use force against recalcitrant and disobedient individuals.

Mention may also be made of some other aspects of the nature of the State.

1. The State is a permanent association. Its continuity is not affected by changes in the form of government. The rights and duties of States under international law are not altered by any change in their governments. 'Governments may come and go, but States are immortal,' as Grotius puts it.

2. The State and society are not synonymous. While the latter embraces the whole life of man, the State is concerned only with the political aspect. Man's loyalty to the State does not exhaust all his social obligations. The Idealists are wrong when they

say that the State and society are identical. Moreover, the State is not an end in itself. It is only a means to the enrichment of individual's personality. There is no doubt that the State is the highest of all associations because without it an individual will not be able to develop his personality. In its absence, it will not be possible for an individual to lead a good life. The State is an essential instrument of civilised and progressive life but that does not mean that it should be regarded as an end in itself. To do so is to invite the worst form of totalitarianism.

3. The State is a natural growth, but all the same it is an external institution. It can create only those conditions which are necessary for the development of human personality. It cannot directly affect the inward morality of the individual.

4. The State is not an organism. The resemblance between the State and an animal organism is only superficial. The supporters of the organic theory are wrong when they say that the State is an organism. Anyhow, the organic theory is correct in asserting that the State is not a mere collection of individuals without having any unity. Members of the State depend on one another and their individual welfare is dependent on the welfare of all; and the welfare of all is dependent on the fact whether each individual performs his duties properly or not. The State is *like* an organism, although *it is not* an organism.

POINTS AT A GLANCE

1. *The State is a human association ; it is a territorial group of human beings ; it is an organised group, not a casual crowd ; it is a sovereign association.*
2. *The State is a permanent association.*
3. *The State and society are different from each other.*
4. *The State is an external institution.*
5. It is like *an organism, though* it is not *an organism.*

CHAPTER V

ORIGIN OF THE STATE

Outline

Introduction
Divine Origin Theory
Social Contract Theory
Forces Theory
Patriarchal and Matriarchal Theories
Evolutionary Theory
Evolution of the State

Man is known for his curiosity. He is not satisfied merely with the existence of things. He is very keen to know how and when they came into existence. The State is a universal phenomenon. Man is fully aware of its existence. But he wants to know how mankind originally came to live under State control or authority.

The question of the origin of the State is very interesting, but it is not easy to explain how and when the State arose. Recorded history does not give us definite information about this. Prof. F.H. Hankins is of the opinion that the question of exact political origin is unanswerable in the present state of knowledge. Gilchrist says: "Of the circumstances surrounding the dawn of political consciousness we know little or nothing from history." In the absence of definite historical records, political pundits and thinkers have naturally taken resort to speculation. They have advanced theories that are speculative in character. The important speculative theories dealing with the question of the origin of the State are:

(*a*) The theory of divine origin.

(*b*) The theory of social contract.

(*c*) The theory of force.

(*d*) The patriarchal and matriarchal theories.

All these theories have long been exploded and are not acceptable to modern mind. One question presents itself here: Why should we bother now about the theories which have long been proved as false? The answer to this question is that every one of these discarded theories contains an element of truth in it, and helps in piecing together the true theory of the origin of the State. Moreover, they throw a good deal of light on such political questions as relation between the individual and the State, nature of sovereignty, duty of political obligation, etc. Not only that. These theories, at some time or the other, immensely influenced political thought and action and their study will help us understand the political conditions of the past.

It is now the evolutionary theory which is regarded as the true theory of the origin of the State. This theory represents the Darwinian method of explaining the origin of the State. The method is now a days very popular with social scientists Darwin applied the idea evolution in biology. This idea or theory is that all living things (plants and animals) have developed from earlier and different forms, and have not been specially created. The theory of evolution was stated by Darwin in his "Origin of Species."

10. Discuss critically the theory of Divine Origin of the State.

Statement. The divine theory is perhaps the oldest theory dealing with the difficult but interesting question of the origin of the State or of political power. According to it, the State is the creation of God ; it is not the product of human will or nature. The State was created by God, not only in the general sense in which everything in the world is said to be God's creation, but in a very special sense of a deliberate act of creation, with a particular purpose in view. The purpose or *end* was to give people protection. The theory assumes that the will of God for Political societies (*i.e.* States) was made known by revelation to certain persons who became His representatives on earth. A corollary of this theory is the doctrine of 'Divine Rights of Kings' which implies :

1. Monarchy is divinely ordained.
2. It is hereditary and cannot be altered.
3. The king is an embodiment of reason. He alone is to decide what is good for his subject and what is not.
4. He is responsible to God only.
5. To resist the king is to commit a sin.

History. The theory has a very long history. Among the earliest people to believe in this theory were the Jews. Their religious book, the *Old Testament* mentions that God selects, appoints, dismisses and even slays kings. Even Christianity supported this theory. St. Paul said, "Let every soul be subject unto the highest powers; for there is no power but of God ; the powers that be are ordained of God. Whosoever resisteth the power, resisteth the ordinance of God ; and they that resist shall receive to themselves damnation." The notion of divine origin of the State prevailed in the ancient oriental empires where the rulers were regarded as the descendants of gods. In China, the emperor was regarded as the 'Son of Heaven'. The emperor of Japan till recently enjoyed a semi-divine status. He was thought of as the son of Nippon (the sun-god). In India even today Hindus regard Rama as the Divine Ruler. He was not simply a Raja. Reference to this theory is also found in the great Indian epic, *the Mahabharta.* In the Middle Ages this theory was widely held in Europe. In those days a struggle for supremacy was going on between the church and the State. All agreed that it was God who was the source of governing authority, but the question was whether He conferred the ruling power on the Pope or on the king. In other

words, the issue was whether the Pope or the king was the representative of God on earth. In the 16th and 17th centuries which saw the rise of absolute monarchies in England and Europe kings found the idea of divine origin of the State convenient to justify their despotic rule. In their hands, it became the theory of Divine Rights of Kings as mentioned above. James I said : "A king can never be monstrously vicious. Even if a king is wicked, it means God has sent him as a punishment for people's sins and it is unlawful to shake off the burden which God has laid upon them." Thus both in the East and in the West, people were made to believe that the State was created by God and to resist its authority was to commit a great sin. With the growth of democratic ideas in Europe and elsewhere, the theory went into disrepute and ceased to wield any influence on political thought.

COMMENTS

For a long time in the history of mankind this theory was regarded as a satisfactory explanation of the origin of the State, but is rejected completely by the modern mind. The importance of the theory today is only historical. It was an utterly false theory but an immensely serviceable one. Its practical utility was immense. It taught the primitive man the value of obedience and discipline, without which no State can come into existence The belief in the divine origin of the State helped rulers in their task of maintaining peace and order in early societies. The theory also tells us that in early societies religion was not separate from politics. Many modern ceremonies like the crowning of kings by the heads of churches, can be understood in the light of this theory. Religion helped in strengthening the authority of the ruler over the people. But with the secularisation of politics in the 16th century the theory was given up. This theory is criticised on the following grounds :

First, the theory does not appeal to reason and commonsense. It is based upon faith which is required only in spiritual matters ; it cannot suit a discussion of political and secular nature. The theory is thus superstitious and unscientific. It is too dogmatic to appeal to our reason. As a matter of fact, the State grew out of the social instinct of man and as such is a human institution. Human nature and effort have contributed to its growth and development. History shows that men have consciously established governments and overthrown them. We see today that men themselves decide what laws they want and under what sort of institutions they want to live. The State cannot be the handiwork of God or of any other supernatural power. It is a secular institution created by man.

The religious view of the State and of political authority is not upheld even by the *New Testament* which says : "Render unto Caesar the things that are Caesar's and unto God the things that are God's." This implies that politics and religion must be kept separate from each other.

Secondly, the theory has dangerous implications. Any ruler

can stand up and proclaim himself as the representative of God, and thus assume despotic powers. The theory thus encourages arbitrary rule which is against the notions of democracy and freedom. Those who support this theory are destroyers of human rights and foes of human progress.

Thirdly, the theory explains only one form of government, *viz.*, hereditary monarchy, where the ruler may proclaim himself as the representative of God. The theory is unhistorical and wrong because there may be and have been other types of governments other than monarchies.

Fourthly, if the State has been established by God and the ruler is His direct representative, it implies that the people need not make any effort to improve the condition of their life, as God and His representative will shoulder that responsibility. Any attempt to change the existing order means challenging the wisdom of God and His representative. The theory can thus lead to political stagnation.

Lastly, God is merciful and if He is the creator of the State and has appointed the king, how is it that the history of the world is full of atrocities committed by kings? A bad king can never be the representative of the Supreme Good (God).

In short, the theory of the divine origin of the State is fallacious, but as we have said above, its practical utility was immense. It met a felt need of primitive societies. It gave a religious flavour to the loyalty to the king and thus taught the primitive man the habits of obedience and law-abidingness, without which no State can come into existence.

POINTS AT A GLANCE

1. According to the theory of divine origin, the State is the creation of God, Who reveals His will to certain persons who become His representatives and the only legitimate rulers of men.

2. The theory has a very long history. The Jews were among the earliest people to believe in this theory. The theory had its supporters in China, Japan and India. Christianity also lent its support to it. In the Middle Ages, the theory was very popular in Europe. In the 16th and 17th centuries, the theory took the form of Divine Rights of Kings. With the growth of democratic ideas and secularisation of politics the theory was given up.

3. The theory is criticised on these grounds: (a) It gives a religious view of the State which is, in fact, a secular institution. (b) It is dangerous as it makes the king a despotic ruler. (c) It can explain only one form of government—monarchy. (d) It can lead to political stagnation. (e) If the State is the creation of God and the king is His representative, how is it that human history is full of royal acts of tyranny?

THE SOCIAL CONTRACT THEORY

11. Discuss critically the social contract theory of the origin of the State.

"The contract theory of the origin of the State is bad history, bad philosophy and bad law". *(V. Important)*

Statement. Of all the theories about the origin of the State, the social contract theory is perhaps the most important. According to this theory, the State originated in a deliberate decision of primitive men. In order to get over the evils of isolation they created the State by means of a contract. The theory is based on two fundamental assumptions : *(a)* A state of nature ; *(b)* a contract.

Advocates of the theory assume that there was a period in human history when the State did not exist. Before the establishment of the State, there was a state (condition) of nature in which man lived a free and unfettered life. It was a state in which there was no organised life and individuals were free from any restriction imposed by man-made laws. Then a stage came when they, for one reason or the other, said good-bye to the state of nature and created the State by means of a deliberate agreement or contract.

This is a general statement of the theory of social contract of the origin of the State.

Supporters of this theory, however, differ in details. What sort of life were individuals leading in the state of nature ? What made them give up the state of nature ? Who were the parties to the contract ? Who became the sovereign ? On these and other points opinion is divided. But all the advocates of the theory agree on the main point : the State is the result of an agreement or contract entered into by men.

HISTORY

The theory of the social contract is very old. The idea of contract has been referred to and criticised by Plato and Aristotle who believed the State to be natural and not artificial or contractual. In the East, Kautilya, the author of *Artha Shastra*, refers to a stateless condition of life in which anarchy prevailed. This led to the appointment of a king who could give people protection. The idea of contract was the basis of medieval feudalism. The relations between lords and vassals (feudal tenants) were contractual. The idea of contract did not, however, become prominent until the seventeenth and eighteenth centuries. It received its fullest expression at the hands of Hobbes, Locke and Rousseau who are regarded as the three *representative* writers of this theory.

Hobbes (1588–1679). Thomas Hobbes, the English philosopher, lived in the days of the Civil War, the sixteen forties. It was

a period of great disturbance. The people suffered and their miseries touched Hobbes deeply. He was convinced that only a strong king could set things right. His theory of social contract which he outlined in his book, "*Leviathan*", gave support to absolute monarchy. The book was published in 1651.

According to Hobbes, man is very selfish by nature. He is always guided by his low impulses and desires. The state of nature was a state of constant warfare and savagery among men. Men were like famished wolves, seeking to devour one another. Force and fraud were its cardinal virtues. The weak suffered and the strong triumphed. Man 's life in the state of nature was "solitary, poor, nasty, brutish and short." There was no common superior who could hold the individual in check.

Obviously, the conditions in the state of nature were intolerable The state of nature was a night mare of wretchedness and terror. The instinct of self-preservation impelled men to put an end to this wretched existence and to form the State This they did by entering into a contract and by establishing an authority to which they irrevocably and unconditionally surrendered their natural powers. The authority thus established might be a single person or a body of persons vested with absolute powers. Hobbes was himself in favour of vesting powers with one person

It must be noted that the ruler or sovereign was not a party to the contract, but a result of it. There was only one contract and it was among the people only. They were so anxious to achieve safety, peace and order that they voluntarily gave all their power to the sovereign. This made the sovereign an absolute ruler. Moreover, the power given to him was irrevocable. It could not be taken away awy from him. The people must obey the sovereign. They had no right to rebel against him. If they rose in revolt against him, they would revert to the state of nature. In this manner, Hobbes justified the absolute powers of the Stuart monarchs His theory is known as 'political absolutism' It was the peculiar merit of Hobbes to have used the idea of social contract, which others had applied in the service of democracy, as the basis of political despotism. He was able to turn the enemy's guns against the enemy's own ranks.

Locke (1632—1704) was a contemporary of Hobbes. He was the theorist of the Glorious Revolution of 1688. If Hobbes used the idea of contract to defend political despotism and absolute monarchy, Locke used it to uphold limited monarchy and people's right of revolution.

He wrote his *Two Treatises on Civil Government* two years after the Glorious Revolution had been accomplished and parliamentary government established under William and Mary. Locke says that the original state of nature was reasonably harmonious. It was a state of goodwill and mutual assistance much unlike the state of enmity, malice, violence and mutual destruction as imagined by Hobbes. In the state of nature, men obeyed the law of nature—a law which men were able to perceive by the exercise of their reason. This

law enabled them to recognise the natural rights of life, liberty and property. The state of nature was, therefore, not a state of perpetual warfare.

The state of nature, however, proved inconvenient because in case of a dispute every person gave his own interpretation of the law of nature. There was no impartial agency which could interpret the law of nature and enforce it. The state of nature was not a state of war, but it was unfortunately a state in which peace was not secure. To overcome this difficulty and to protect life, liberty and property fully, individuals formed a body-politic by means of a social contract, giving up only their personal right to interpret and administer the law of nature. The contract was thus specific and limited, not general as Hobbes had said. Moreover, the power given up was not vested in a single person, but in the community as a whole. Even the sovereignty of the community was not absolute. It had only the power to protect the natural law. The community then appointed a ruler. This was done by means of a contract which the individuals in their corporate capacity concluded with the ruler. This means that according to Locke, there were two contracts—one between the individuals themselves and the other between the community and the ruler. The *first* contract was the social contract and the *second* the government contract. The ruler was a party to the *second* contract and the duty of obedience to the ruler was dependent on the successful performance of duties by him. The people were under an obligation of obeying the ruler if he was able to protect their natural rights. If the ruler failed to do so, the people were at liberty to overthrow him. So we find that Locke made the theory of social contract the basis of limited monarchy His object was to justify the Glorious Revolution of 1688

Rousseau (1712-1778). Let us now take Rousseau's version of the social contract. Locke wrote after a quiet revolution (Glorious Revolution). Rousseau wrote before a violent revolution (the French Revolution). That made a good deal of difference in the way the two writers interpreted the social contract Rousseau's theory is given in his book *Social Contract*, the Bible of the French revolutionaries. This book was published in 1762. The France of Rousseau's time was groaning under a corrupt monarchy. The whole social system was rotten. The common people had to pay heavy taxes to the government. They had to do forced labour or 'bigar'. The aim of Rousseau was to overhaul the political and social institutions of France. With this end in view, he made use of the theory of social contract which was a popular mode of expressing political opinions in those days.

He says that the state of nature was a condition of ideal happiness. It was the happiest period of human life. In the state of nature men lived free, healthy, honest and happy lives. The life of men in the state of nature was a life of self-sufficiency. All they needed to use nature gave them They were crude and unsophisticated, but pure and noble. Their life was like a sweet song. But these conditions did not continue for long. Conditions arose which made it difficult to maintain primordial freedom and

equality of each individual. Private property and gross inequalities came into existence. Population increased. The life of man in the state of nature, therefore, became unhappy. So, individuals entered into a contract to stop these unhappy developments. As a result of this contract, they surrendered all their rights to the community. It was a contract of each with all. The sovereignty of the community was absolute as the surrender of rights to the community was complete. Individuals did not, however, suffer any loss of freedom. An individual was an indivisible part of the community. He did not obey any particular person. He obeyed the will of the community or the 'general will.' The 'general will' was the union of the wills of all the members of the community so far as they were directed to the general good. Law was the expression of the general will. It was to be made in an assembly of all the people. Since everybody took part in the making of laws, obedience to them did not mean any loss of freedom. There was no contract between the community and the ruler or government. The government was only the executive agent to carry out the general will.

Rousseau did not transfer sovereignty to a ruler as Hobbes did. According to Locke, sovereignty belonged to the people but they kept it reserve. Rousseau put forward the theory of popular sovereignty. He said that sovereignty belonged to the people and they actively exercised it. There was no king in his theory. All laws were to be made by the people themselves and only the executive power was delegated to the government.

COMMENTS

The social contract theory was very popular in the 17th and 18th centuries. The theory, especially as formulated by Locke and Rousseau, has influenced political thought and practice a good deal and has several merits. *First*, the theory correctly explains the basis of the modern State or government. It rightly emphasizes that the basis of the State or government is the will or consent of the people and that democracy is the only natural and legitimate form of government. *Secondly*, it brings out the importance of the individual—it lays emphasis on his rights and liberties. *Thirdly*, it emphasizes the fact that the State is a human institution and the individual is obliged to obey the government not because of any divine mandate but because the State or government promotes the interests of the individual. *Lastly*, the theory is a source of inspiration to the individual. It tells him that he is not completely at the mercy of nature. The State is, no doubt, a natural growth but individuals are not mere spectators. They can influence its development and future a good deal.

But as an explanation of the origin of the State, the theory of social contract is fallacious. It has been criticised on the following grounds:

1. Unhistorical. The theory is historically false from two points of view. *Firstly*, there is not a single authentic record of a State which came into existence as a result of a contract entered into by primitive people living in the state of nature. The whole concept

is a figment of the imagination of certain political theorists. The example of 'Mayflower Compact' is often cited to prove the historicity of the social contract. In 1620, a group of English puritans, known in history as Pilgrim Fathers, emigrated to America on a ship named Mayflower. They drew up a contract—Mayflower Compact—among themselves to found the colony of New Plymouth. But this example is not apt because the men who made this contract did not emerge from a state of nature. They had already been members of a well developed State—England—and had a lot of political experience. *Secondly*, historical evidence shows that the progress of societies has been from status to contract and not from contract to status. The idea of contract implies that individuals are free to make a contract; but according to writers like Sir Henry Maine, primitive men did not possess such freedom. Early life was not individualistic in character. In the early societies, every individual had a status in a family, clan or a tribe. No individual could act independently of the group of which he was a member and make contract. He did not have the freedom of action. The spirit of individuality or freedom grew only with the development of social and political institutions. Individuals in the primitive society could not contract themselves into a political society or State. But the social contract theory makes contract the starting point, which is wrong.

2. **Illogical.** The theory cannot stand the test of reason and philosophy. It is impossible to believe that men in the state of nature could have such a highly developed political consciousness as to enter into a contract. A contract is a very refined way of doing things. How could the lawless men of the state of nature think about a contract? How could such men possess the virtues that are required to abide by the contract? The theory is illogical and irrational.

3. **No Sanction Behind Contract.** A contract is possible when there is some authority to enforce it. It requires a system of law to support it and a tribunal to enforce it. These days, if two parties enter into a contract, there is a third party—the State—to enfore it. Without the State there cannot be any valid contract. But the social contract preceded and not followed the creation of the State.

Even if there were a contract, it could be binding only on the parties to it. It could not bind the descendants of those who originally made the contract. But according to the social contract theory, generations of men are supposed to be tied down by the original contract. This is absurd.

4. **No Rights without State.** Supporters of this theory have assumed certain 'natural rights' in the state of nature. But the maintenance of rights and liberty is not possible without the State. To quote Green : "The real flaw in the theory of contract is not that it is unhistorical but that it implies the possibility of rights and obligations independently of society or State."

5. **Mechanical.** The theory has offered a mechanical explanation of the origin of the State. It assumes that the State is a manufacture like an aeroplane or a motor car. The fact is that the State is a product of historical growth and many factors, besides

human nature, have made their contribution to its evolution. The State is a growth and not a make.

6 **Dangerous.** The theory, especially in the form it has been formulated by Locke and Rousseau, has dangerous implications as it favours chaos and anarchy. It leads to regard the State and its institutions as the product of individual caprice and whim. It can, therefore, create in the minds of men the wrong idea of their right to rise in revolt against the government even on petty grounds. "The State" says Burke, "ought not to be considered as nothing better than a partnership in a trade of pepper and coffee, calico, or tobacco or some other such concern to be taken up for a little temporary interest and to be dissolved by the fancy of the parties ...It is to be looked on with reverence, ...It is a partnership in all science, a partnership in all art, a partnership in all virtue and in all perfection."

7. **Bad Psychology.** The theory is psychologically incorrect. It assumes too much exclusiveness on the part of the primitive individual Man's nature is gregarious. He is an individual-in-society. From the cradle to the grave he depends entirely on others Moreover, the theory assumes a unanimity of will on the part of savages—individuals living in the state of nature—at the time of social contract. It is psychologically impossible to achieve unanimity of opinion or will.

8. **Contradictory Conclusions.** The doctrine of special contract leads to opposite conclusions according to the choice of its exponents. It cannot, therefore, be regarded as a satisfactory explanation of the origin of the State. It suggests political despotism (Hobbes) on the one hand, and democracy (Locke and Rousseau) on the other.

To sum up, we may say that the theory of social contract of the origin of the State is bad history, bad philosophy, bad law and that it speaks about many impossible things. It stands discredited today in the light of history and modern psychology. In spite of this, the doctrine has retained a strong appeal. It serves as the basis of all modern versions of democracy.

POINTS AT A GLANCE

1. *According to the social contract theory, the State is the result of voluntary agreement entered into by men who once lived in the state of nature.*

2. *Hobbes, Locke and Rousseau are the chief advocates of this theory.*

3. *Hobbes used this theory to support absolute monarchy. Locke used it to def nd the Glorious Revolution and to uphold limited monarchy ; Rousseau used it to justify popular sovereignty.*

4. *The theory has been criticised on various grounds : it is unhistorical : it is bad philosophy or logic ; illegal ; there can be no rights in the state of nature ; it is mechanical ; it is dangerous ; it is psychologically incorrect ; it leads to opposite conclusions.*

5. *The idea of contract is useful as it serves as the basis of democracy.*

12. Discuss critically the different views of Social Contract developed by Hobbes, Locke and Rousseau.

(V. Important)

Thomas Hobbes, Locke and Rousseau are the chief exponents of the social contract theory of the origin of the State. All the three writers agree with one another that, before the establishment of the State, men lived in the state of nature. Their life was free and unfettered. There were no man-made laws to regulate their conduct. A stage came when they were forced to give up the state of nature and establish the State by means of a contract. These champions of the social contract theory, however, give us different versions of the state of nature and of the contract.

Thomas Hobbes (1588-1679). He was an English philosopher and political theorist who lived in the days of the Civil War (1642-51). He was obsessed by the problem of law and order. He was convinced that only a strong ruler could prevent society from degenerating into anarchy. He supported absolutism of the Stuart Kings of England. He was not a democrat. The doctrine of contract could only be used to promote democratic ideas. It was the peculiar merit of Hobbes that he used this doctrine against democracy. With great ingenuity and audacity, he turned the enemy's guns against the enemy's own ranks. His theory of social contract is given in his book, *Leviathan*, which appeared in 1651.

Hobbes sees mankind through pessimistic spectacles. He says that man by nature is very selfish and the state of nature was a state of war—a 'war of all against all' and 'notions of right and wrong, justice and injustice could have no place in such a state.' Force and fraud were the two cardinal virtues in the state of nature. Individuals lived in fear and danger of violent death. The life of man in the state of nature was 'solitary, poor, nasty, brutish and short'.

The instinct of self-preservation induced men to escape from this condition. They combined together to entrust to a sovereign (who may be one man, or a few, or all—Hobbes thought that monarchy was the most effective form of government) all their natural rights (by this Hobbes meant 'physical powers'.) This they did by means of a contract. In this way the State came into existence. The contract was entered into by the individuals who agreed on the surrender of their natural powers. There was no contract between the sovereign and the individuals. The sovereign made no promises. The surrender of powers or rights to him was unconditional and the contract irrevocable. The sovereign thus enjoyed absolute powers. He was the sole source of laws and the sole interpreter of laws. He was himself not subject to any law. Even the law of God or conscience could not be pleaded against him. The people could not complain. They did not have the right of revolution. To resist the sovereign was to return to anarchy.

COMMENTS

The theory of Hobbes has been criticised on various grounds:

1. He says that man is entirely selfish, which is a one-sided view of human nature. Man is also social and at times may make sacrifice for the sake of others. This aspect of human nature has been

completely ignored by Hobbes "Behind every theory of absolute government lurks a disparaging view of mankind, and Hobbes is no exception to the rule". (*G.P. Gooch*)

2 We cannot understand how 'natural' men, who were radically anti-social, could become saints all of a sudden after making the contract No juggling with words and contracts could make them fit subjects of the State. A sudden jump from a state of war to the state of peace does not appeal to reason.

3. Hobbes assumes that men gave up their 'natural freedom' without any safeguards for the future This is an insult to common sense and is something contrary to human nature

4. Hobbes's theory of the State is based upon naked force and slavery. It is brutal. His State is in no way better than the state of nature from which it affords an escape

5. Hobbes's theory does not close the door upon rebellion. He himself says that the ruler was not a party to the contract. If the people rise in revolt against the ruler, they break no contract that they make with him.

6 Hobbes says that a successful revolution would destroy the State and the people would go back to the state of nature. Here he fails to distinguish between the State and government. He does not see that changes in the form of government do not imply dissolution of the State. However, the merit of Hobbes is that he emphasized the need for law and order without which no State can make any progress. He defines legal sovereignty and legal obligation with admirable strength and precision.

7. Hobbes fails to recognise the ultimate sovereignty of the people. He has only put forward the theory of legal sovereignty The people may give the ruler a legal status, but that status does not empower him to tyrannise over the people.

John Locke (1632-1704). Next to *Hobbes*, Locke is the greatest figure in the history of English political thought He was critical of Hobbes's theory of absolutism. He wrote to advocate limited or constitutional monarchy and to uphold the Glorious Revolution of 1688. His theory of Social Contract is given in his *Two Treatises on Civil Government.*

He says that man is not essentially selfish. He is generally guided in his actions by reason The state of nature was not a state of Hobbesian war of all against all. It was a state of peace and mutual aid In the state of nature, men obeyed the law of nature—a law derived from reason and morality This law enabled them to enjoy the rights of life, liberty and property

The state of nature was, however, unsatisfactory because there was no impartial authority to punish those who violated the natural law. To get out of the state of nature, men created the State by means of a contract under which each transferred to the community the right of enforcing the law of nature. The community in its corporate capacity made another contract—a governmental contract—with the ruler (Locke does not explicitly refer to the second contract).

The ruler or government was bound to enforce the law of nature and to protect the natural rights of the people. If the ruler failed to perform his duties, the people could remove him. Sovereignty ultimately belonged to the people

COMMENTS

Locke's theory is more satisfactory than that of Hobbes. He made a clear distinction between the State and government. The overthrow of a ruler does not entail the dissolution of the State. This point was missed by Hobbes who identified the State with government. Another merit of Locke is that he recognises the limited powers of government and the democratic basis of political power. He emphasizes the idea that consent is the basis of government. To quote Laski: "Locke gave the theory of consent a permanent place in English politics."

But his theory is criticised on the ground that he does not give adequate significance to the legal sovereign. Hobbes puts forward the theory of legal sovereignty, but he completely ignores political sovereignty. Locke does just the opposite. He fails to see that a revolution, however desirable, is never legal. Gilchrist says: "Hobbes gives a theory of legal sovereignty; Locke recognises the force of political sovereignty but does not give adequate recognition to legal sovereignty."

Rousseau (1712—1778). He was a bold champion of popular sovereignty and of revolution. He tried to combine the theories of Hobbes and Locke. His aim was to harmonise the absolute power of the sovereign with the freedom of the individual. His theory is given in his book, *Social Contract*, published in 1762.

Rousseau draws a very attractive picture of the state of nature. According to him, men lived equal, free, healthy and honest lives in the State of nature. Population was limited. The resources of nature were sufficient enough to satisfy all their needs. There was no private property and no institution of family in the state of nature. Men were noble savages. In short, the state of nature was the best period of human existence. This happy primitive condition, however, did not last long. Why? Population increased. Private property came into existence. This led to gross inequalities and to many other evils. A contract was made to stop these developments.

There was only one contract. The contract was between individuals in their individual capacity on the one hand and the community as a whole on the other. Each individual surrendered all his power and all his rights to the community of which he was a member and not to any particular individual or body of individuals. No one suffered any loss of freedom because 'each man giving himself to all, gives himself to none' and 'remains as free as before.' The will of each individual was merged into the general will which represented the common interests of all members of the community, as contrasted with particular interests. The general will was the sovereign. Law was the expression of the general will. It could be made only in an assembly of the whole people. Since all participated in the making

of law, obedience to it implied obedience to one's own self; a law could not be unjust because no person could be unjust to himself.

Rousseau clearly pointed out the distinction between the State and government. The State was the whole body-politic. It manifested itself in the supreme general will. The government was chosen to give effect to the general will. Its function was only executive. It was merely the agent of the people who could change it at their pleasure.

Rousseau thus laid the foundation of popular sovereignty. He agreed with Hobbes that sovereignty was absolute, but it belonged to the people and not to the ruler. Rousseau's sovereign is Hobbes's Leviathan with his head chopped off Again, according to Locke the people possessed sovereignty ultimately, but Rousseau believed that sovereignty belonged to the people immediately and they exercised it actively.,

COMMENTS

Rousseau occupies a very important place in political thought. He performed one service of great importance in the sphere of political thought—formulation of the theory of popular sovereignty. This concept of sovereignty serves as the basis of democracy. Rousseau's ideas tremendously influenced the contemporary politics of Europe and America. The French Revolution worshiped him as one of its intellectual pioneers. His teachings influenced the framers of the American Constitution a good deal. His concept of sovereignty maintains its grip on the modern mind and his political influence is every day increasing. The terms like 'general will' and 'common interests' have today become the central feature of almost every theory of the State.

Rousseau's theory has, however, been criticised on the following grounds :

1. He weakens very much the basis of governmental authority. He does not allow the government to have sufficient authority. The government of his conception performs only executive functions and it can be dissolved by the people at their pleasure. Rousseau justified revolution.

2. Rousseau says that a law can be passed by the people only. It must be in accordance with the general will. The general will can be expressed only in an assembly of the whole people. In other words, Rousseau advocates direct democracy which is not possible in the modern territorial State with its huge population.

3. Rousseau is vague about his general will. What is a general will? He says that it is not the will of a majority, not even the will of all. He recognises that even the whole people can be wrong. The general will is always right, and the will of all, which is a mere aggregate of individual wills each seeking its own interests, can be wrong. He does not, however, give effective criteria for telling when a decision is an expression of the general will.

[**Note** : A brief general criticism of the theory of social contract should also be given here. For that please refer to the previous answer].

POINTS AT A GLANCE

1. Hobbes, Locke and Rousseau are the chief exponents of the theory of social contract. They agree on fundamentals, but differ much in details.

2. Hobbes says that the state of nature was a state of constant war. So men in the state of nature surrendered irrevocably and unconditionally all their rights to a ruler by means of a contract. Sovereignty belonged to the ruler. Hobbes has been criticised on these grounds: he gives one sided view of human nature; the 'natural' man could not become a saint after making the contract, the assumption of Hobbes that men gave up all their rights is an insult to common-sense; Hobbes's theory is based upon naked force and slavery; the theory does not close the door upon revolution; Hobbes failed to distinguish between the State and government, he recognised the legal sovereign, but failed to recognise the ultimate sovereignty of the people.

3. Locke believes that the state of nature was a state of reason and goodwill, but it was inconvenient. He mentions two contracts—the social contract and the governmental contract. The ruler was a party to the contract and the people had the ultimate power of deposing him if he abused his powers. Locke's theory has two merits: he clearly distinguishes between the State and government, and gives only limited powers to the ruler. But the defect of his theory is that he does not give adequate recognition to the legal sovereign. A revolution, however desirable, can never be legal.

4. According to Rousseau, the state of nature was a very nice condition of human living, but it did not last long. So individuals created the State by means of a contract. There was only one contract. It was between the individuals in their individual capacity on the one hand and the community as a whole on the other. Sovereignty remained with the people and they exercised it constantly. Law was the expression of the general will. The government had only executive powers. Rousseau thus supported popular sovereignty. The merit of Rousseau's theory is that it serves as the basis of democracy. He has, however, been criticised on three grounds: (a) he weakens very much the basis of governmental authority; (b) he advocates direct democracy which is not possible in the modern State; (c) his theory of general will is very vague.

ROUSSEAU'S GENERAL WILL

13. Give a brief statement of Rousseau's concept of the General Will. Give a short comment on it. (*V. Important*)

Jean Jacques Rousseau is regarded as the intellectual father of the French Revolution of 1789. His book '*Social Contract*' was the 'Bible' of the French revolutionaries. By his ideas he roused the emotions of the French people against the corrupt monarchical government under which France was groaning. Rousseau lived at a time when there were no restraints on the French King. In 1766, Louis XV could still say: "Sovereign authority resides in my person alone. I alone possess legislative power. I depend on no one and I share it with no one."

Rouss au believed that men were born free and equal, but they were 'everywhere in chains.' He wanted to see a new social order which would enable men to recover both their freedom and equality.

The concept of the General Will is the most fundamental element in his philosophy. It is his most distinctive contribution to political thought. It is c osely associated with the notion of sovereignty, which Rousseau defines as 'nothing less than the exercise of the General Will.'

What is the General Will? According to Rousseau, it is not the arithmetical sum-total of the particular wills of the individual citizens He is very emphatic about that. Individual wills taken together cannot form the General Will because they may be marked by selfish interests. The General Will, on the other hand, is purged of all selfishness. It takes account of common interests It is the compound of the best wills of citizens willing the best interests of the State It is the conscience or the real will of the community. It is the "Group will" of the State It is always right and makes no mistakes.

He further says that the General Will is sovereign and its authority cannot be transferred. Law is the expression of the General Will and it can be made in an assembly of the whole People. Hence it cannot be represented in parliamentary institutions. To quote Rousseau : "As soon as a nation appoints reprentatives, it is no longer free, it no longer exists " He declared that England was free only during elections after which it was 'enslaved' and counted for nothing. Rousseau continued : "Whoever refuses to obey the General Will shall be campelled to do so by the whole body. This means nothing else that he will be forced to be free." What he means to say is that the General Will is the real will of the individual. He should always follow it. If he does not, then the General Will can legitimately compel him to obey it. It is the only authority that can legitimately coerce him, because it is his own real will coming back to him although he does not always recognise it as such, and foollowing it he will find true freedom.

COMMENTS

Rousseau's notion of the General Will is criticised on the ground that it is not clear It is vague and abstract. We do not know how the General Will is to be found. Rousseau is not able to help us to solve this difficulty. At times he seems to suggest that the General Will is to be sought only when all unanimously agree. But he has also told us that the will of all is quite different from the General Will All the people can be wrong, but the General Will is infallible. At times he seems to imply that the General Will is the will of the majority. But he himself says that what makes the will general is less the number of voters than the common interests uniting them again, he says at some other place that the General Will may be embodied in one man. All this is very confusing.

There is another difficulty. All individuals do not have political conviction. As one writer puts it : "Huntsmen may be

genuinely convinced that the fox likes being hunted, but how can they know that the fox shares this view unless he can speak for himself?" Even if every individual is capable of expressing political opinions, a way will have to be found of recognising when he is really thinking in terms of general interest and when in his own interest. Rousseau does not give us any criterion to know that

Rosseau's conception of the General Will can also be criticised on the ground that it encourages totalitarianism and dictatorship His statement that an individual can be 'forced to be free' indicates that tendency in his thought. A dictator can say that he understands the interests of the people better than anybody else, and claim that he is interpreting Rousseau's teachings correctly

To sum up, Rousseau's notion of the General Will suffers from certain defects, but that does not mean that it has no value If his ideas are taken as a whole, they clearly indicate that Rousseau was a great champion of democracy and popular sovereignty. It is not fair on the part of critics to take certain elements in his argument in an isolated form and regard him as a supporter of State absolutism and totalitarianism He has an important place in political thought His ideas tremendously influenced the contemporary politics of Europe and America The terms 'General Will' and 'common interests' have today become the central features of almost every theory of the State.

As members of associations, including States, individuals do identify themselves with collective interests of such bodies and are loyal to them. To this extent, there is in their willing an element of 'general' as distinct from particular willing. If every citizen in the State begins to think of his own selfish interests, the State cannot grow strong and prosper.

THEORY OF FORCE

14 How far is it true to say that the origin of the State lies in force?

Or

Discuss critically the theory of force regarding the origin of the State. *(Important)*

Statement. The theory of force tries to explain the origin of the State in terms of brute force. The State, it says, is the child of human aggression. It is a law of nature that the strong always subdue the weak. Warfare and feuds among the primitive people were common A physically strong man brought others under his control by force. Similarly, strong tribes enslaved the weak ones. Thus, step by step, larger and larger groups came into existence. Tribes grew into kingdoms, and kingdoms or States developed into empires by the same process.

Jenks is one of the prominent modern advocates of this theory. He says : "Historically speaking, there is not the slightest difficulty in proving that all political communities (States) of the modern type owe their existence to successful warfare." He further says that the

State is born when a tribal leader, with a band of warriors, is able to bring the people of a definite territory of a considerable size under his control.

That the State is the child of force is further supported by the fact that even today force is necessary to maintain the State. It is the coercive apparatus of the State, *viz.*, its army and police, which makes the people obey its orders.

In short, this theory states the following two propositions :

(*a*) It was force alone that created the State.

(*b*) Even today the State or government is based upon force only.

History. In the hands of different people, the theory of force has been used to serve different purposes. During the Middle Ages, the Church Fathers used it to establish the moral superiority of the Church over the State. They said that since the State was born of force and aggression, it had evil "parents" and was, therefore, something intrinsically bad. The Church was God's creation. The State must, therefore, be subordinate to it.

The Individualists of the 19th century used the force theory to justify the economic theory of *Laissez faire*. The force theory, they said, was an evidence that in society, the strong prevailed over the weak leading to the survival of the fittest. Struggle was the law of life and the strong had the right to subjugate the weak. They (the Individualists) argued, therefore, that there should be no regulation of competition in industry, as free competition or conflict was the law of life. If natural laws were allowed to operate without any interference, the individual effort would lead to the maximum production and society would make good progress.

The Marxists have used the theory to prove that the present State is an agency of oppression and exploitation. They argue that the State, from its very inception, has been used as an instrument of human exploitation by the ruling class. The class which is economically powerful uses the machinery of the State to exploit others and if this exploitation is to end in the future, the State and class society both must disappear.

The force theory was supported by a school of German writers who made use of this theory to train the German people in the ideas of world domination. Treitschke (1834-96) and Bernhardi (1849-1930) preached the gospels of force and world conquest. "Might is the supreme right", says Bernhardi, "and the dispute as to what is right is decided by the arbitrament of war. War gives a biologically just decision, since its decisions rest on the very nature of things." According to Treitschke, the grandeur of history lies in the perpetual conflict of nations and the appeal to arms will be valid until the end of history. Hitler and Mussolini were believers in the doctrine of 'Blood and Iron' and were responsible for the Second World War.

COMMENTS

Is the force theory a true explanation of the origin of the State

and of its continued existence ? Modern political philosophers do not think so. They do admit that the State has to use force to maintain peace and order within its jurisdiction and to protect itself from foreign aggression. They also do not ignore the fact that force has played its role in the evolution of the State. There are examples of States in history which were established through 'Blood and Iron'. Even today 'Blood and Iron' can be seen in the world. The Great Powers of today still worship at the Altar of Mars and are manufacturing new and more destructive weapons. But all this does not mean that the State is exclusively the outcome of brute force and that today also it is maintained by sheer force. Critics of this theory point out :

1. Several factors have contributed to the origin and the development of the State. Factors like kinship, religion, political consciousness, etc. have worked along with force to bring the State into existence.

2. It is wrong to suppose that it is only force which keeps the structure of the State intact. No institution which is based upon brute force can endure for a long time. A State which is based upon unadulterated force is built on sand and is doomed from the very moment of its birth. "Might without right can at best be only temporary, might with right is a permanent basis of the State." It is true that the State uses force, but it does so to check evil. But to admit this is quite different from saying that force is the essence of the state. Force is only its manifestation. A State can last only when it obtains the habitual obedience from the great majority of the people. It must not threaten people into submission. A State which too often resorts to force digs its own grave. Thomas Hill Green (1836-86), the English philosopher, rightly says: "Will,not force is the basis of the State." The real bases of the State are consent and co-operation. A lasting and progressive State can be built upon mutual consent and moral foundations alone. In the last analysis, man is a moral being and this fact should not be ignored by any theory of the State.

3. The State has a very high moral purpose. Its aim is to create an atmosphere in which an individual is able to develop his personality. Aristotle was right when he said, "The State came into existence for the sake of life, it continues to exist for the sake of good life." An institution which is based upon sheer force cannot achieve this lofty purpose.

4. If we admit that the State is based upon force and force only we will have to sacrifice democracy and human rights at the altar of the State, and face a worst type of totalitarianism in the world.

5. The theory of force approves indirectly the method of capturing political power by the use of force. If the government derives its authority from the force it commands, its opponents can legitimately challenge it with counter force. The theory is thus anarchic in its tendency.

POINTS AT A GLANCE

1. According to the theory of force, the State is the child of physical force. It is the result of subjugation of the weak by the strong.

2. The theory was advocated by Church Fathers in the Middle Ages and by the Individualists in the 19th century. Marxists and some German philosophers have also made use of this theory.

3. The theory suffers from the following defects :

(a) Force can never be the sole factor in the formation of the State. Co-operation, kinship, religion, etc., have also contributed to the creation and evolution of the State.

(b) The State has a very high moral purpose which cannot be achieved by an institution established through brute force and aggression.

(c) Force cannot maintain the State for a long time. It must be based upon public opinion and consent.

(d) The theory is dangerous as it supports despotism.

(e) The theory is anarchic in its tendency as it indirectly supports the method of capturing political power by force.

4. The only truth in the theory is that some force is necessary to maintain peace and order and to resist external aggression.

15. "Will, not force, is the basis of the State. Discuss this statement.

Or

"Government rests on force." Discuss. *(V. Important)*

What is the basis of the State or government ? On this question different writers exhibit much difference of opinion. Some writers hold the view that the State is the child of human aggression, and even today its basis is brute force. The government, the machinery of the State, is nothing but an organised force in the last analysis. The State gets obedience from the people because it possesses coercive machinery—police and army. Comte, a French writer, says : "Force is the basis of every human society." The Italian Fascists and German Nazis believed that force was the legitimate basis of government

There are other writers and thinkers who maintain that the real basis of social order and modern State is the willing consent of the people. T.H. Green says : "Will, not force, is the basis of the State."

We agree with Gre— In order to be stable, a State must establish its authority on the consent of the people. It is true that the State has to use force to maintain peace and order in society. Unless peace is preserved in society, there can be no progress. The State must check the forces of evil by the application of force. If it is not able to do so, it is no State. Moreover, it must use force to protect itself against foreign aggression. But all this does not mean that its authority is based on force only. To say that force

is the essence of the State is to take a superficial view of the whole matter. No institution based on sheer force can last long and a government which threatens the people into submission through bullets and bayonets is bound to come to grief soon. Such a government digs its own grave. It is the lesson of history that naked force, divorced from right, is bound to fail in the end. The people will permit a government to use force up to a reasonable limit. If it crosses that limit, it will invite troubles for itself. The French and Russian revolutions illustrate this point. Today almost everywhere the people have become politically conscious. They obey the State because it serves their common good. They will not obey it if it does no good to them, and tries to exact obedience from them through sheer force. The stability of the State or government depends on the habitual and willing obedience that it obtains from the great body of inhabitants.

Moreover, in the ultimate analysis, man is moral being and the State has a high moral purpose. Aristotle rightly says : "The State came into existence for the sake of life and it continues to exist for the sake of good life." Now, no institution can achieve this lofty purpose if it is based upon brute force.

Lastly, the view that the State is based upon force is inimical to democracy and human rights, and favours totalitarianism.

In short, a lasting and progressive State can be built upon people's consent and moral foundations : force can never be the real basis of the State or government.

POINTS AT A GLANCE

1. Some writers believe that the State or government is based on sheer force.

2. There are others who say that the real foundation of the State is the consent and will of the people. For example, Green says that will, not force, is the basis of the State.

3. Green's view is correct. Today it is the will of the people which matters. The government can use force up to a reasonable limit. But it cannot permanently rule through bullets and bayonets. Only that government can be stable which is able to obtain the willing obedience of the people. Moreover, a State based upon brute force can never achieve its purpose of enabling the people to lead a good life.

THE PATRIARCHAL AND MATRIARCHAL THEORIES

16. Critically examine the patriarchal and matriarchal theories of the origin of the State.

Or

Discuss the statement : "The State is the family writ large."

Statement. The patriarchal theory holds that the State is nothing but an expansion of the patriarchal family, that is, a family in which the eldest male member is absolutely supreme. Sir Henry Maine is the chief exponent of this theory. He expounded

this theory in his books *Ancient Law* and *Early History of Institutions*.

According to this theory, the family was the earliest form of social organisation. Its patriarch, *i e*, its eldest male member, had complete control over other members. In this sway of the patriarch over his descendants may be seen the rudiments of control as exercised by government.

In course of time, the single family broke up into more families which together formed *gens* or *house*. The aggregation of houses formed a tribe. But whether a family, a house, or a tribe, the ruling authority was the patriarch. The aggregation of tribes in course of time constituted the Commonwealth or the State. As the patriarch or the eldest male member has been given so much importance in this theory, it is known as the patriarchal theory of the origin of the State.

Sir Henry Maine sums up the patriarchal theory in the following words :—

"The elementary group is the family connected by common subjection to the highest male ascendant. The aggregation of families forms the gens or house. The aggregation of houses makes the tribe. The aggregation of tribes constitutes the Commonwealth (State)".

Maine's arguments are based on his study of the ancient customs of the Jews (who traced their descent from a common ancestor) and on the evidence derived from the Hindu joint-family system which allowed enormous authority to be exercised by the male head.

The patriarchal theory of the origin of the State has been challenged by a group of writers who believe that the matriarchal family and not the patriarchal family was the earliest form of social organisation. They say that in early society individuals did not lead settled married lives. They lived in packs or herds where loose sexual relations prevailed. A man could not claim a woman as his wife because she was a wife to so many husbands. So to say, a system of polyandry prevailed. In such a society, descent was traced through the female because "maternity was a fact and paternity just a conjecture."

Obviously, the matriarchal family could flourish only when society was still nomadic in character. As agriculture developed, tribes settled down. Marital (pertaining to marriage) relations also assumed a permanency and thus the patriarchal family came into existence. Supporters of the matriarchal theory say that a tribe was the oldest group. In time, it broke up into clans. These gave place to households and ultimately an individual family came into existence. So, the advocates of the theory argue that the origin of the State should be ascribed to the matriarchal family and not to the patriarchal family.

The matriarchal theory is a bye-product of modern anthropology (the study of races). It has been developed mainly by McLennan, Morgan and others who carried on their researches among

the natives of Australia and the Malay archipelago. It received support from the fact of prevalence of queens in Malabar and the power of princesses among the Marathas. Also, polyandry is still prevalent among primitive tribes.

COMMENTS

Both the patriarchal and matriarchal theories contain a partial truth. The historical and sociological researches have proved that neither the patriarchal, nor the matriarchal family was universal in early societies. Here the matriarchal relationship, and there a patriarchal system is found to have been the rule. Further, these theories oversimplify the problem involved in the origin of the State. They lay the whole emphasis on kinship in explaining the birth of the State. Early forms of social organisation were very complex. It has been proved that in addition to kinship, religion, force, political consciousness, etc. have played an important part in the evolution of organised social and political life.

Moreover, some of the fundamental differences between the two institutions (the State and the family) are ignored by the advocates of the 'family' theories. Garner rightly points out : "The family and the State are totally different in essence, organisation; functions and purpose, and there is little reason to suppose that one should have developed out of the other". The important difference between the two are these. *First* : In the family the authority of the head of the family over the children is natural, but in the State it is one of choice and this choice is determined by the fact that some sort of political authority is needed to regulate social life. *Second* : Voluntary cooperation is the essence of the family, but the observance of the commands of the State depends on compulsion. *Third* : The State is supposed to treat all citizens equally, but in the family there exists the natural system of subordination of the younger to the elder. *Fourth* : The authority of the head of the family over the children weakens when the latter become adults, but the authority of the political power in the State increases as time passes. All this shows that the State cannot be regarded as a family 'writ large.'

These theories do contain an element of truth. They draw attention to one of the factors that contributed to the growth of the State. There is no doubt that kinship or blood relationship strengthened the bond of unity and thus helped in the formation of the State.

POINTS AT A GLANCE

1. According to the patriarchal and the matriarchal theories, the State is nothing but an expansion of the family.

2. These theories have been criticised on these grounds :

(*a*) *Neither of the two families has been historically proved to be universal. We cannot, therefore, say that the State is nothing but an expansion of the family, patriarchal or matriarchal.*

(*b*) *The origin of the State cannot be so simple.*

(c) *The theories fail to understand the fundamental differences between the State and the family.*

3. *The only element of truth in these theories is that kinship helped to cement the relations among ancient groups of men. So kinship was an essential factor in the creation of the State, though it was not the sole factor.*

THE HISTORICAL OR EVOLUTIONARY THEORY (ACCEPTED THEORY)

17. "The state is the grandual and continuous development of human society, out of a grossly imperfect beginning, through crude but improving forms of manifestation, towards a perfect and universal organisation of mankind." Discuss this statement.

or

Discuss the evolutionary theory of the origin of the State.

or

"The State is a growth, not a make" Amplify the statement and show clearly the various factors which have contributed to the evolution of the State. *(V. Important)*

Political thinkers have advanced different theories to explain the origin of the State. The theory of divine origin claims that the State owes its birth to the divine will The force theory regards it as the child of force. The patriarchal and matriarchal theories look upon it as an expansion of the family. The contract theory says that the State came into existence as the result of a contract entered into by primitive people. Modern political thought, however, rejects all these theories. Garner says : The State is neither the handiwork of God, nor the result of superior force, nor the creation of resolution or convention, nor a mere expansion of the family".

Modern writers have advanced the evolutionary or historical theory which, according to them, truly explains the origin of the State. Of all the theories regarding the origin of the State, this is considered to be the most satisfactory one.

The theory holds that the State is a historical growth. It is the product of time. It is foolish to fix any date of the birth of the State or to refer to any single factor which brought it into being. Historical researches prove that out of crude institutions of primitive man, the State has grown and developed into modern complex structure. It has not evolved from a particular single source but has evolved from various sources slowly and gradually, silently and imperceptibly. Man is by nature a social animal. It is in his nature to lead a group of life. The State is but the gradual flowering, the realisation and fulfilment of the inborn tendency of human nature. Its origin was spontaneous or natural because of the social instinct of man. But its development has also been influenced by the forces of history including deliberate choice. Kinship, religion, force and political consciousness are the important factors that have contributed to its development.

KINSHIP

The State could not come into existence without a sense of unity and a habit of obedience among the people. Kinship, or blood relationship went a long way towards encouraging the sense of unity and obedience. Family, whether patriarchal or matriarchal, was the earliest form of social organisation. Members of a family, bound together by ties of blood, feel an urge of unity in face of danger or even otherwise. Moreover, the family exhibits the system of rule and subordination. The younger members of the family obey their elders. The relationship of command and obedience arises naturally in the family. Kinship was effective not only in holding the family together but also in uniting the people into clans and tribes. Tribal rules and customs were enforced on the members of the tribe by the chieftain of the tribe. Later on, tribal life came to be organised into the State. So we can say that the lessons of obedience and unity learnt by the primitive man in the family formed the basis of the State. In other words, kinship or blood relationship was an important factor which contributed to the establishment of the State.

RELIGION

Religion or the mode of worship was closely connected with kinship. It was an important contributory factor in the evolution of the State. It was a great unifying factor in the early society. It influenced every act of human life. It taught primitive people the lessons of unity and obedience.

Early religion was of two types :—(*a*) nature worship and (*b*) ancestor worship. The early man was too ignorant to understand the various natural phenomena such as thunder, lightning, etc. He regarded them as manifestations of some supernatural power. He worshipped them out of fear. The primitive man did not understand the mystery of death and held the departed spirits in great awe and respect. The departed spirits were worshipped, or propitiated by sacrifices. Nature worship was thus combined with ancestor worship. Common worship held together families and tribes. It strengthened the original bond of kinship. The head of the family or the tribal chief was also the religious head. He was regarded as a link between members of the family or tribe and their ancestors. He enforced all the religious customs. He was their ruler as well as their priest. His word was law and his whims regulations. Thus religion helped not only in promoting a sense of unity but also in checking barbaric anarchy and teaching primitive people obedience and respect for authority. There is no doubt that religion worked through fear and superstition, but it helped a good deal in keeping primitive people under discipline.

Even in modern times the importance of religion has not completely disappeared. The Queen of England is even today called "the Defender of the Faith." The practice of religious coronation of kings and queens still continues. The history of the creation of Pakistan clearly shows that religion, which was a much stronger force in early society, must have contributed a good deal to the growth of the State,

FORCE

The instinct of survival is the most important of human instincts. In the early society, struggle for food, fertile lands, etc. must have been quite frequent. So, war and conquest must have played an important role in the amalgamation of families into clans, of clans into tribes and of tribes into States. The strong tribes enslaved the weaker ones and occupied their territories. Members of the defeated tribes were kept down through the use of superior force. Even today States grow in wealth, territory and population as a result of war and conquest.

POLITICAL CONSCIOUSNESS

The State could not assume a permanent and stable character until the people became conscious and realized the need for political organisation. Political consciousness means the realisation that some sort of political organisation or a system of authority and obedience is essential to the satisfaction of human needs, such as preservation of law and order, defence against foreign aggression, economic well-being, moral and spiritual development, etc. The people found that the State was the best agency to promote these common needs. No doubt, this consciousness came very gradually. But when it came, it provided a permanent basis for the State. With the growth of political consciousness, the nature of laws and of obedience to laws also changed. Formerly, there were customary and religious laws, and obedience to them was based on force. Gradually, enacted laws began to replace them, and obedience to them assumed more and more a rational character.

To sum up, we cannot ascribe the origin of the State to any single factor. The evolutionary theory is the best explanation of the origin of the State. The theory of divine origin is too dogmatic to be accepted. Historical researches reject the theory of social contract. The force theory tells us only a partial truth. The patriarchal and matriarchal theories over-simplify the origin of the State. It is only the evolutionary theory which is in accord with human psychology and history. The theory is right when it says that the State is the result of the action and interaction of a number of factors. It contains the true elements of all speculative theories.

POINTS AT A GLANCE

1. The historical or evolutionary theory is regarded as the most satisfactory theory of the origin of the State.

2. This theory holds that the State is neither the creation of God, nor the child of force, nor the result of a contract, nor a mere expansion of the family, patriarchal or matriarchal The fact is that the State has gradually grown.

3. And kinship, religion, force and political consciousness have contributed to the evolution of the State.

18. Examine the main speculative theories of the origin of the State and state the element of truth in each.

•The origin of the State is very obscure. The searchlight of history cannot penetrate the mists of obscurity that surround the circumstances in which the State or political authority originally

came into existence. Political thinkers and pundits have, therefore, speculated about the origin of the State.

The first important theory dealing with this question is the theory of divine origin. It says that the State is the creation of God. This theory assumes that the will of God was made known by revelation to certain persons who became His vice-regents on earth. Obedience to them became a religious as well as a political duty for the people

The theory has long been exploded. It is too dogmatic to appeal to our reason, and is dangerous for the rights and liberty of the people. Another defect of this theory is that it can explain only one form of government—monarchy.

The element of truth in this theory is that it emphasizes the instinct for law and order implanted by God in the human breast. It also tells us that religion played an important part in teaching primitive people the habits of obedience without which no political organisation is possible.

Another theory dealing with the question of the origin of the State is the theory of social contract. It says that the State is the result of an agreement or contract entered into by those persons who once lived in the state of nature. Hobbes, Locke and Rousseau are the chief supporters of this theory.

The theory has been criticised on the ground that it is unhistorical and illogical and speaks about many impossible things. Moreover, it makes the State a very artificial institution and misrepresents the relation between the individual and the State.

In spite of these defects, the theory serves as the basis of modern democracy. It truly emphasizes the importance of the individual, and indicates the possibility of modifying and improving political institutions by direct human effort.

The third speculative theory is the theory of force which says that the State is a child of human aggression. The theory bases the authority of the State on the principle that "might is right."

It is true that force is necessary to maintain internal order and peace and to fight external aggression, but as an explanation of the origin of the State and of the basis of its authority, the theory states only a partial truth. Force is not the sole factor for the formation of the State, and the real basis of the State is will, not force.

Both the patriarchal and matriarchal theories attribute the origin of the State to blood-relationship or kinship. They say that the State is nothing but an expansion of the family, patriarchal or matriarchal.

The chief defect of these theories is that they oversimplify the origin of the State. The primitive society was very complex and many factors contributed to its make-up. Kinship was only one of the factors that led to the emergence of the State.

The true theory dealing with this question is the historical or

evolutionary theory. It says that the State is neither the handiwork of God, nor the result of superior physical force, nor the creation of a resolution or convention, nor a mere expansion of the family. It is the product of time. It came into existence gradually and slowly. It is the gradual development of human society from crude and imperfect beginnings.

Kinship, religion, force and political consciousness are the principal factors which contributed to the birth of the State.

This theory combines the true elements of all speculative theories and is regarded as the most satisfactory explanation of the origin of the State. The State is the result of action and interaction of a plurality of factors.

THE STATE IN HISTORY

19. Trace the evolution of the State from primitive times to the present day.

Or

Trace the evolution of the Nation-State from primitive communities. ***(V. Important)***

To tell the story of the development of the State clearly and briefly is a somewhat difficult task. The origin of the State is wrapped in obscurity. It is, however, now generally agreed that the State is the result of growth or evolution, and a number of factors, such as kinship, religion, force and political consciousness, have contributed to its make-up. Moreover, the evolution or growth of the State has not been uniform. It did not assume the same form everywhere at a particular time. Very different types co-existed and co-exist now. We can, however, distinguish the various forms that the State has assumed in the course of its evolution. The dominant forms are the Tribal State, the Oriental Empire, the City-State, the Roman Empire, the Feudal State, and the modern National State.

TRIBAL STATE

The earliest States were tribal States. They were very small in size and were governed by tribal chiefs who were generally advised by councils of elders. Nomadic tribes could not form States in the true sense of the term. Tribal States appeared when tribes settled in definite geographical areas. The tribes were based on common birth, common religion, and common economic interests. The life of the people in the tribe was regulated by long-established customs.

THE ORIENTAL EMPIRE

The next type of States known to history were empires which developed in the East. They came into existence in the fertile valleys of the Nile, the Tigris, the Euphrates, the Indus, the Ganges, and the Yangtse. They sprang up as a result of conquest of weaker tribes by the stronger ones. The main features of these States were :

(a) The people were ruled over by despotic kings. Their duty was to submit completely to the authority of the despotic king and to pay him taxes. The people had no liberty.

(d) These empires or States had no real unity.

(e) These States were unstable. Whenever the authority of the ruler weakened, the empire fell apart and power came into the hands of a new line of rulers.

From the point of view of students of Political Science, the oriental empires offer little interest. Few of them evolved any [illegible] institution that would repay study. Anyhow, they kept large tracts of the world in comparative order and quiet and made the primitive man learn obedience and discipline.

THE GREEK CITY-STATE

After that a new type of State sprang up in ancient Greece—a country broken up into numerous valleys and islands by the hills and the sea. Chiefly for geographical reasons Greece never reached the stage of a united nation but remained split up into a number of communities called City-States, i.e., small tracts of land centring round a town. Most of these City-States—Athens is the best example—passed from monarchy through aristocracy to democracy. The Greek City-States had a richer political life than the oriental empires. Their small size enabled the people to take active interest in public affairs. Citizenship did not merely imply the payment of taxes to the government. It implied a direct and active association with all the affairs of the government. The Greek City-State was democratic as against oriental despotism. It gave its citizens freedom. The Greeks believed that the State existed not simply for life; it existed for good life.

The Greek City-states have made an important contribution to the development of political and civic concepts. Greece produced two great political philosophers—Plato and Aristotle. Their works formed the basis of all future study of politics. As a matter of fact, the Greeks were the true founders of scientific thinking. They had a great passion for criticism and analysis. They thought about their institutions in terms of purpose. There was real politics in the Greek City-States. In the despotisms of the East, the people thought about government as something sacred and accepted.

The Greek political experiment was short-lived. There was no unity among the City-States. They were small and were always fighting against one another. The result of all this was that they were conquered first by Macedonia—a military Republic to the North of Greece—and then by Rome.

THE ROMAN WORLD EMPIRE

Rome was originally [illegible] one of the City-States of ancient [illegible] these City-States enabled them to [illegible] a united State under the [illegible] of the [illegible] of Rome. The Romans then started conquering [illegible]. The empire included France, Spain, England, [illegible]. [illegible] defect of the empire was that it denied [illegible] individual liberty and local self-government. It was [illegible], too centralised and too much dominated by the desires and dictates of Rome. The citizens of the empire had no political

rights or individual liberty. Greece gave to her citizens democracy and freedom but could not give them unity. Rome gave them unity but failed to give them democracy and freedom. Unity and liberty must go together in an ideal State.

Rome developed a remarkable system of law, which is now the basis of the legal systems of many countries of the world. The Romans were not a philosophically-minded people. They were a legally-minded people. They generally looked at their political institutions from a legal point of view.

THE FEUDAL STATE

The fall of the Roman empire was brought about in the 5th century A D. by Teutonic tribes from what is now Germany. They took possession of the various parts of the Roman empire. The ideals of Teutonic tribes were individualism, liberty and local self-government. Teutonic institutions and civilisation gave birth to feudalism. Feudalism was a compromise between the ideals of centralisation of the Roman Empire and the Teutonic ideals of individualism and local self government. Under feudalism, authority was not vested in one person or persons. Feudal States were a loose combination of kingdoms, principalities and estates. The land of the realm was divided among the feudal nobles. Individuals owed direct allegiance to their immediate landlords and to the king or ruler through them.

As a matter of fact, Feudal States were not States in the strict sense of the term. There was no common citizenship, no common law, and no central authority. The main features of a feudal State were : (*a*) There was no central authority. To each locality was left the task of looking after its affairs as best as it could. The local land owning noble was the only person who could maintain law and order. (*b*) The people had no liberty. They were under the complete control of feudal lords and through them they owed allegiance to the king.

MODERN NATION-STATE

In the 16th century feudalism began to give way to unification of authority. Powers began to be concentrated in the hands of absolute monarchs who ruled over fixed territories. The strength of feudal lords was weakened by the Hundred Years' War, the War of Roses in England, and other factors. The National State was first created by the Tudor monarchs of England. They created a strong central government. Afterwards, Spain, France, Germany, Italy, etc. also became Nation-States. The people, living in the same territory, speaking the same language and having the same traditions, began to have a feeling of oneness. The following are the features of Nation-States :—

(*a*) They are territorial States and not City-States of the ancient times.

(*b*) The inhabitants of a Nation-State possess the sentiment of nationality, that is, they feel that they are one and are quite distinct [illegible] of the world. This sentiment of oneness is

either the result of common race, common language, common religion, common residence, or any other factor of this kind

(c) They are internally and externally sovereign States.

(d) The modern Nation-States are mostly democratic though in the beginning they were absolute monarchies. Democracy of the modern States is of indirect type. It is not direct democracy of Greek City-States. The democratic Nation-State is a higher form of political organisation than the Tribal State, Oriental State, City-State or Feudal State. It has succeeded in solving the problem of reconciling liberty with unity. The people enjoy full freedom, and have the feeling that the welfare of the State is their own welfare. The State is not divided into mutually hostile factions as was the case with ancient Greece.

After the end of the First Great War (1914—18), it was generally believed that in future almost all States would adopt the democratic form of government but on account of the distress which followed the War, democratic governments were overthrown in several States, and dictatorships, either of one man or of a party, were established. This position continues even today. But the Nation-State cannot be regarded as the last word in human political organisation. It cannot stay for ever. We live in the age of atom and hydrogen bombs. Scientific progress has brought about a crisis in the life of the Nation-State. Enlightened minds in every State are today looking forward to the formation of a World State on a federal basis. A World State may not be possible in the near future, but the ideal is sure to be attained one day if the human race is to be saved. A World State will mean the disappearance of the Nation States.

POINTS AT A GLANCE

1. The State is a growth in which many factors have played their part. The evolution was, however, not uniform. Very different forms have co-existed and co-exist now.

2. We can say roughly that the State has assumed the following forms in the course of its evolution :—

(i) The Tribal State.

(ii) The Oriental Empire.

(iii) The City-State.

(iv) The Roman World Empire.

(v) The Feudal State.

(vi) The Modern National State.

SUGGESTIVE QUESTIONS

1. Dr. Garner says, "We are therefore led to the conclusion that the State is neither the handiwork of God, nor the result of superior physical force, nor the creation of resolution or convention, nor a mere expansion of the family.". Answer briefly what you understand by each of the statements and give the correct conclusion about the genesis of the State.

2. Discuss briefly the main forces that have led to the emergence of the State.

3. Discuss the merits and defects of the social contract theory.

4. Attempt a reconciliation of the principal theories of the origin of the State, i.e., show what you believe to be the elements of truth in each.

5. How do Hobbes, Locke and Rousseau differ from one another in their interpretation of the social contract theory and its implications ?

6. Which theory of the origin of the State do you consider most rational and why ?

7. Discuss the rationality and limitations of the theory of force in the evolution of the State.

8. "To say that God selects this or that man as ruler is contrary to experience and commonsense." (Gilchrist). Discuss.

9. Discuss the statement : "War begat the king."

10. "The State was not born ; it just grew." Discuss.

11. Examine the views of Hobbes and Rousseau on the origin of the State and the nature of sovereignty.

SOVEREIGNTY

(In the Name of ALLAH, the Beneficent, The merciful)

Whereas Sovereignty over the entire Universe belongs to Almighty Allah alone, and the authority to be excercised by the people of Pakistan within the limits prescribed by Him is a sacred trust.

All that prescribed by the Author in the following Chapter under even caption is the concept generaly observed and followed by other independent states. The conception of 'Sovereignty' described therein is not exactly the same that followed in our 'Islamic Republic of Pakistan'. All readers may therefore keep it in mind before going through the following Chapter as refered to herein above.

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CHAPTER VI

SOVEREIGNTY

Outline

Meaning of sovereignty.

Different aspects of sovereignty.

Austin's theory of sovereignty.

Popular sovereignty.

Pluralistic conception of sovereignty.

We know that sovereignty is one of the essential features of the State. In this chapter, we shall discuss this concept in detail. The most important contribution to the theory of sovereignty was made by John Austin, a nineteenth-century jurist of England. We shall discuss that theory and see how far Austin's conception of sovereignty suits modern States.

20. "Sovereignty is the original, absolute, unlimited power over the individual subject and over all associations of subjects." Explain and discuss.

Or

Explain the term 'sovereignty' and describe its characteristics. (*Important*)

Sovereignty is one of the essential features of the State. It is this feature which distinguishes the State from other associations. The word 'sovereignty' is derived from the Latin word 'superanus' which means supreme. Sovereignty of the State means supremacy or supreme power of the State. It denotes the original, absolute, unlimited power of the State over the individual subject and over all associations of subjects. The word 'sovereign' in this context has no reference to a king or queen. In Britain, for example, the King or Queen is referred to as the Sovereign. The term came into use when the British kings exercised really supreme powers. These days the British Queen has only nominal powers. Still the word 'Sovereign' is applied to her.

Political theorists distinguish between external sovereignty and internal sovereignty. External sovereignty consists in the independence of a State from any other State or political authority, e.g., an international organisation. Over a State another State has no power and may not prescribe its actions. A sovereign State determines its relations to other States by itself. Also international law does not impose any limitation on sovereignty, since its rules and sanctions do not issue from a supra-national authority, the State may or may not obey them. Internal sovereignty means supremacy of the State over all individuals and associations of individuals within its jurisdiction. We can hardly speak of a State which does not possess adequate powers to manage its domestic affairs and is at the mercy of certain irresponsible groups.

The conception of sovereignty is of slow growth. It was first elaborated by a French lawyer, Bodin, in the sixteenth century. He defined sovereignty as "the supreme power of the State over its citizens, unrestrained by laws." This meant that the State was supreme in law within its boundaries. To use modern terms, the State possessed both 'internal' and 'legal' sovereignty. Forty-nine years after Bodin brought out his theory of sovereignty, Grotius (1583—1645, of Holland extended the conception by mentioning another ingredient, namely, independence of the State from foreign control.

In other words, the State enjoyed external sovereignty. Hobbes located sovereignty in the person of the monarch. Rousseau took the crown of sovereignty from the head of the king, and gave it to the people. He put forwad the theory of popular or people's sovereignty. The people, he said, expressed their sovereignty through the 'general will' which represented the true interests of everybody.

CHARACTERISTICS

It is clear from above that sovereignty of the State possesses the following characteristics :

1. **Absoluteness.** Sovereignty of the State is absolute. This implies that both inside and outside the State there is no power superior to it. The power of the State is legally unlimited. Some writers are, however, of the opinion that though sovereignty of the State is legally unlimited, it is subject to certain practical limitation. It is internally limited by moral laws, customs and traditions, and the rights of individuals and of other associations. Sovereignty of the State is limited externally by the rights of other States. Almost all civilised States of the world scrupulously observe International Law. Thus we find that sovereignty of the State which is legally and theoretically absolute is, in fact, absolute only with certain practical limitations.

2. **Permanence.** We know that the State is permanent and since sovereignty is an essential quality of statehood it is also permanent. Death or deposition of the ruler or the dissolution of government does not finish sovereignty. A democratic system of government may be replaced by a dictatorship, but this change will make no difference to the sovereignty of the State. Sovereignty endures as long as the State endures. Mr Justice Sutherland said in an important decision of the American Supreme Court "Rulers come and go; governments end and forms of government change; but sovereignty survives. A political society cannot endure without a supreme will somewhere. Sovereignty is never held in suspense."

3. **Universality.** This attribute of sovereignty implies that sovereignty of the State affects all persons and associations. All persons or associations that are within the territorial limits of the State are under its complete sway and control. No one is exempt from it. It is only as a matter of international courtesy that foreign diplomatic representatives are allowed to remain subject to the law of their own States.

4. Inalienability. Just as a man cannot transfer his life or personality to another without causing his own destruction, in the same way the State cannot part with its sovereignty without destroying itself. Sovereignty is the supreme power of the State and to part with it would amount to suicide. A part of the territory may be transferred to another State, but thereby sovereignty is not alienated. The State surrenders its sovereign rights over that part of territory only without destroying its own sovereignty.

Indivisibility. Sovereignty cannot be divided. There cannot be more than one sovereign in the same State. There can be only one co-ordinating, controlling and coercive authority in one State. If it is divided, that means destruction of the State and creation of new States. "Sovereignty is an entire thing; to divide it is to destroy it. It is the supreme power in a State and we might just as well speak of half a square or half a triangle as of half a sovereignty."

The theory of the indivisibility of sovereignty has been attacked from different points of view. There are some writers who maintain that in federal States sovereignty remains divided between the Centre and the constituent units. In the years following the adoption of the Constitution of America, the theory of divided sovereignty was held by many prominent American thinkers. They said that sovereignty resided partly in the Union (U.S.A.) and partly in the constituent units. But this view is, however, based on a misconception. What is divided in a federal system is not sovereignty, which belongs to the State as a whole, but the exercise of its various powers which are distributed between the organs of the central government and those of the constituent units.

More recently, the theory of divided sovereignty has been put forward by the pluralists. They maintain that sovereignty is not the exclusive possession of the State. It is shared by numerous associations within the State's territorial limits. This view cannot be accepted because it will divide sovereignty into fragments and result in the disintegration of the State, and will lead to confusion and anarchy.

POINTS AT A GLANCE

1. Sovereignty is one of the essential features of the State. Internally, it means supremacy of the State over all individuals and associations of individuals. Externally, it means independence of the State from the control of other States.

2. Sovereignty of the State is absolute, permanent, universal, inalienable and indivisible.

21. How will you draw a line of demarcation between Legal and Political Sovereignty? Also explain the difference between (*a*) Titular and Actual Sovereignty. (*b*) *De Jure* and *De facto* Sovereignty.

(*a*) Sovereignty is one of the essential characteristics of the State. Though the existence of such a sovereign authority is taken for granted in every State, its precise and correct location

is not an easy matter. The problem of location of sovereignty has, therefore, given rise to a distinction between legal sovereignty and political sovereignty.

LEGAL SOVEREIGNTY

Every State makes laws to regulate the activities of individuals. Individuals and groups of individuals must obey these laws. According to Gilchrist, "the power whether it be a person or body, to which in the last resort is attributed the right of laying down these laws, is the legal sovereign of the State." Lawyers and judges recognise only the legal sovereign.

It will be thus seen that the concept of legal sovereignty emphasizes the existence of a determinate authority whose will is supreme within the State. Laws made by this supreme law-making authority are enforced by the courts. For example, the Queen-in-Parliament is the legal sovereign in Britain.

POLITICAL SOVEREIGNTY

Many political thinkers have said that the concept of legal sovereignty is too narrow and legalistic. In actual practice, the will of the legal sovereign is not omnipotent and all-powerful. As Dicey has said: "Behind the legal sovereign, there is another sovereign before whom the legal sovereign must bow." For example, Parliament in England is legally entitled to make any laws but it will never go against the wishes of the electorate. The legal sovereign thus recognizes an authority superior to it and takes it into consideration while making laws.

This power behind the legal sovereign is called the political sovereign and the type of sovereignty exercised by it is political sovereignty. By its very nature political sovereign is not definite and cannot be identified. It is unknown to law and is not recognized by courts. However, its existence cannot be denied and the legal sovereign will ignore it at its own peril.

As exemplified in the case of Britain, the political sovereign in a democracy will be the electorate together with other influences which mould its opinion. In a direct democracy, legal and political sovereign will practically coincide. It may be mentioned here that legal sovereignty and political sovereignty do not refer to two different things. They refer to the same thing, looked at from two different view-points.

TITULAR AND ACTUAL SOVEREIGNTY

Sometimes a distinction is made between titular sovereignty and actual sovereignty in case of countries which possess democratic form of government but are ruled by hereditary kings. In such countries, the king is a mere figurehead and his powers are nominal. But he is called the sovereign and the government of the country is carried on in his name. He is said, therefore, to enjoy titular sovereignty. The real sovereign power, however, lies with another body which enjoys actual sovereignty.

For example, in Britain, while the Queen is the titular sovereign, Parliament may be considered the actual sovereign.

DE JURE AND DE FACTO SOVEREIGNTY

De jure sovereignty means sovereignty in law. A *de jure* sovereign is recognised by law or by the Constitution of a State. *De facto* sovereignty means sovereignty in fact but not in law. A *de facto* sovereign is actually obeyed by the people though he may not be recognised by law or the Constitution.

This distinction between *de jure* and *de facto* sovereignty arises when a revolution has taken place in a country or a military conqueror has annexed it. The previous legal sovereign was its *de jure* sovereign whose position has now been usurped. The usurper who can enforce obedience on the majority of the population through his superior physical force, is known as the *de facto* sovereign. During the Second World War, the position of Hitler was that of a *de facto* sovereign in the various States of Europe, which had been overrun by the German armies. The kings of these countries, for example, Greece, Norway, Bulgaria, etc., had been dethroned but were recognised as *de jure* sovereigns of their respective countries by the Allies.

A *de facto* sovereign always tries to be recognised as a *de jure* sovereign. As his position becomes more established and permanent, the courts of law start recognising his authority. Ultimately, he acquires the status of *de jure* sovereign.

POINTS AT A GLANCE

1. Legal sovereignty belongs to the supreme law-making authority in the State. Courts recognise only the legal sovereign.

2. Political sovereignty refers to all the influences that lie behind the legal sovereign.

3. While legal sovereign is determinate, political sovereign is indeterminate.

4. Titular sovereignty refers to the nominal powers of the monarch while actual sovereignty belongs to the body exercising real powers.

5. De jure sovereignty is based on law while de facto sovereignty implies supremacy because of superior physical force. Ultimately, a de facto sovereign acquires the status of a de jure sovereign.

22. What is Austin's theory of sovereignty? Examine it critically. (*V. important*)

Austin (1790—1859) was an eminent English jurist. His theory of sovereignty is found in his famous book, "*Lectures on Jurisprudence*," which was published in 1832.

Law, according to Austin, is a "command given by a superior to an inferior." His theory of sovereignty is based upon this conception of law. The theory runs thus:

"If a determinate human superior, not in the habit of obedience to a like superior, receives habitual obedience from the bulk of a

given society, that determinate superior is the sovereign in that society and the society, including the superior, is a society political and independent."

This view of sovereignty has the following implications :

(*a*) The sovereign in a State is some determinate superior *i. e.*, some superior who can be definitely regarded as the source of all authority. Neither the 'general will' of Rousseau, nor the community as a whole can be sovereign. Moreover, the determinate superior must be 'human' : sovereign power must be vested in a person or body of persons, and not in any super-human agency.

(*b*) The power of the sovereign or superior is absolute, unlimited and indivisible. He obeys none except himself. He receives habitual obedience from the bulk of a given society, but so far as he is concerned, no restraints, internal or external, can be imposed upon him.

(*c*) Laws are merely commands of the sovereign.

COMMENTS

Austin was a lawyer and his theory is the logical outcome of a lawyer's reasoning. It has not found favour with many political writers who have criticised all the above implications.

Does Sovereignty belong to a determinate person or body of persons ?

Austin attributes sovereignty to a determinate human superior—a visible sovereign. But it is pointed out by critics that it will be impossible to locate sovereignty in a determinate person or body of persons in federations. Where does sovereignty reside in the United States of America ? It resides neither in the President, nor in Congress, nor in any other organ of the State because their powers are limited by the written Constitution. Should we then say that in the United States the Constitution is sovereign ? This view is not in accord with Austin's view because the Constitution is not 'human'. Moreover, the Constitution can be amended. That is why some writers say that sovereignty in the U.S.A. is vested in the body of persons who can amend the Constitution. But is that body fixed or determinate ? Not at all. Moreover, it is not in continuous existence. It will meet only when the Constitution is to be amended. These difficulties make the location of sovereignty in a federal State "an impossible adventure."

Even the British Parliament (which is perhaps the best example of Austin's sovereign) is not sovereign in the Austinian sense. Parliament (*i.e.* Queen-in-Parliament) is the legal sovereign in Britain, but behind the legal sovereign there is the political sovereign—the electorate—to whose mandate the legal sovereign will in practice bow and whose will must ultimately prevail in the State. The political sovereign is legally unknown, unorganized, and incapable of expressing the will of the State in the form of legal commands. Austin forgets that at the back of the sovereign who is a determinate superior, there are agencies (voters, public opinion, etc.) which are highly indeterminate, and whose authority can never be ignored. In the

words of Chipman Gray, 'the real rulers of a society are undiscoverable.'

Does the sovereign possess absolute and indivisible power ?

Austin makes the sovereign legally absolute. This view of sovereignty has been attacked by many critics. It is argued by critics that unlimited power is nowhere existent. It was pointed out by Sir Henry Maine during the lifetime of Austin that his conception of an absolute sovereign was not applicable to politically undeveloped communities, where custom was the law. Maine gave the example of Maharaja Ranjit Singh who exercised despotic powers and 'the smallest disobedience to whose commands would have been followed by death or mutilation'. In spite of the unlimited powers he exercised, Maharaja Ranjit Singh could not issue a command contrary to the established customs of the people. Austin's explanation—'what the sovereign permits, he commands'—did not meet the objection of Sir Henry Maine, because the sovereign cannot help 'permitting' what he cannot alter. No sovereign can afford to ignore public opinion, moral and religious ideas of the people, their well-established customs, etc. The exercise of sovereignty is always limited by the fear that the people may revolt. Laski says that the French and Russian revolutions are footnotes to the theory of absolute sovereignty.

Internationalists criticise the theory of absolute sovereignty on the ground that it is out of accord with the conditions prevailing in the world today. Interdependence between States is on the increase. No State today can afford to defy international law and international commitments. The concept of an absolute and independent sovereign State is, on the international side, fatal to the well-being of humanity, as it inevitably leads to conflicts and wars.

In the opinion of Laski and other pluralists, sovereignty of the State is not absolute and indivisible. They say that sovereignty is not the exclusive possession of the State. It is shared by numerous associations within the State territorial limits. These associations are voluntary, and are based upon men's economic, religious, fraternal and other needs which cannot be satisfied by the State. A citizen may belong to a trade union, or a religious society requiring oaths which may seem to him more sacred than his allegiance, to the State. The pluralists maintain that this type of allegiance is, within its sphere, just as real as the allegiance claimed by the State within its domain. It may therefore be said that there are a plurality of sovereignties the State being only one out of many. For this reason, supporters of this viewpoint are called "pluralists". Supporters of Austin are called "monists" because they assert that only one sovereignty or sovereign can exist in a State.

Laski observes : "Men are members of the State, but they are members also of innumerable other associations which not only exercise power over their adherents, but seek also to influence the conduct of government [illegible]

these associations are "in their spheres, not less sovereign than the State itself."

Is Law Command of the Sovereign ?

Austin defines law as a command of the superior to his inferiors. This definition of law is too narrow. All laws cannot be reduced into commands of the sovereign. There are many laws which originate in customs and practices of long usage. The will of the sovereign does not play any important part in such law.

Further, the term 'command' implies that the people obey laws because they are afraid of the force at the disposal of the sovereign. This is wrong. Austin ignores other important factors which make the people obey laws. Most people obey laws because they serve their common needs and interests. Again, every law is not in the nature of command. There are certain laws which totally lack the element of command. For example, a law conferring the right of voting on the people is not command. If a person does not make use of his vote, he will not be punished.

To sum up, it is impossible to make Austin's theory the basis of sound political philosophy : it is too narrow and legalistic. It does not take into account certain important influences that are at work in the modern society. Commenting on Austin's theory, Laski says : "Any attempt as with Austin to discover the sovereign is a difficult, and often an impossible, adventure. It postulates for the sovereign possession of qualities which cannot in fact be exercised." And, "law for the student of politics, is built upon the general social environment".

We must, however, remember that Austin was a jurist and from a legal and formal standpoint, his views are sound enough. According to Garner, it has many weaknesses, but "as a conception of the strict legal nature of sovereignty Austin's theory is on the whole, clear and logical".

POINTS AT A GLANCE

1. Austin enunciates his theory of sovereignty in these words : "If a determinate human superior, not in the habit of obedience to a like superior, receives habitual obedience from the bulk of a given society, that determinate superior is sovereign in that society............"

2. Austin's theory implies : (a) the sovereign is a determinate human superior ; (b) the power of the sovereign is absolute and indivisible ; (c) law is a command of the sovereign.

3. By way of criticism we can say that (a) it is almost impossible to locate sovereignty in a determinate person or persons in the modern State ; (b) internationalists and pluralists say that sovereignty can never be absolute ; (c) the definition of law as a command of a superior to his inferiors is too narrow.

4. Austin's theory cannot be made the basis of sound political philosophy. It is at the most the theory of legal sovereignty.

POPULAR SOVEREIGNTY

23. Explain clearly the doctrine of popular sovereignty. Discuss its limitations.

(Important)

In consonance with democratic ideals, many political thinkers have advanced the theory of popular sovereignty which says that the people or masses are the custodians of supreme political authority or sovereignty. According to them, sovereignty is an essential characteristic of the State and since the latter exists for the welfare of the people, sovereignty must belong to the people.

Prof. Ritchie has explained the doctrine of popular sovereignty in another way. He says that the essence of sovereignty is the capacity to enforce obedience through superior physical force. The people exercise this power in the last resort. Through the threat of rebellion they can force the legal sovereign to yield to their wishes, and if necessity arises, they can oust the legal sovereign by rising in revolt against him.

The idea of popular sovereignty was born in the 16th and 17th centuries as a reaction to absolute monarchy. In the 18th century it was expounded by Rousseau with revolutionary zeal, and since that time it has become the basis and watchword of democracy. Rousseau taught that the people expressed their sovereignty through the "general will" which represented the true interests of everybody.

Popular sovereignty must be distinguished from political sovereignty. "Behind the sovereign which the lawyer recognises," says Prof. Dicey, "there is another sovereign to whom the legal sovereign must bow". That sovereign is the political sovereign. The political sovereign in the State may be the electorate, the landed aristocracy, the army, the church, or any other body of persons who influence the legal sovereign. The concept of popular sovereignty emphasizes that political authority in the State ultimately belongs to the people. It will be seen that in modern democracies, the distinction between political sovereignty and popular sovereignty is not easy to make. In a democratic State all adults, men and women, enjoy voting power and as such electorate is constituted by the general body of public. Thus political sovereignty and popular sovereignty merge into each other. If franchise is limited by property or other qualifications, political sovereignty becomes narrow and more restricted than popular sovereignty.

COMMENTS

The doctrine or theory of popular sovereignty seems to be very attractive and convincing at first sight, but difficulties crop up when we try to make it precise and definite. The term 'people' is very vague. Does the entire unorganised population including women, children, insane persons, etc. constitute the sovereign people? No, an unorganised mass can never be regarded as sovereign body. Again, the concept of superior physical power of the mass is no longer valid. An organised government served by a loyal and disciplined army cannot be overthrown by unorganised masses these days.

In spite of these weaknesses, the doctrine of popular sovereignty cannot be easily dismissed. It emphasizes that the people are the source of sovereign power though they do not exercise it. But

the exercise of supreme political authority by any person or body of persons must be based on their consent and goodwill. Further, the interests which prevail must be the interests of mass of men rather than of any special portion of community.

Thus interpreted, the theory of popular sovereignty contains great truth. In his book *'Political Theory.'* Dr. Asirvathan refers to the following implications of the theory :

(*a*) Government does not exist for its own good. It exists for the good of the people.

(*b*) If people's wishes are deliberately violated, there is the possibility of revolution.

(*c*) Easy means should be provided for a legal way of expressing public opinion.

(*d*) Government should be directly held responsible to the people through such means as frequent elections, local self-government, referendum, initiative, and recall.

(*e*) Government should exercise its authority directly in accordance with the laws of the land and should not act arbitrarily.

POINTS AT A GLANCE

1. The doctrine of popular sovereignty means that supreme political authority in the State belongs to the people.

2. The idea of popular sovereignty was put forward in the 16th and 17th centuries as a reaction to absolute monarchy. In the 18th century it was expounded by Rousseau with great force.

3. The doctrine has been criticised on the ground that (i) it is vague and indefinite, (ii) it is not possible for unorganised masses to exhibit their superior physical force these days.

4. The doctrine is valuable in emphasizing that government must be based on popular support and must look after general interests.

PLURALISM

24. "It would be of lasting benefit to Political Science if the whole concept of sovereignty were surrendered" (Laski). Examine the theory of sovereignty from the point of view of the pluralists.

Or

On what grounds do the pluralists attack State sovereignty ? How far is their criticism justified ?

(V. Important)

Austin and others of his way of thinking regard State sovereignty as absolute and indivisible. This traditional theory (also called analytical or monistic theory) of sovereignty has been severely criticised by a group of political thinkers known as pluralists.

Pluralism is a theory which seeks to reduce the status of the State by asserting that other human associations (religious, professional, cultural or charitable) play an important part in the

life of man, have a personality of their own and indeed share the sovereignty which is considered to be the exclusive possession of the State. The roots of this doctrine lie in the Middle Ages, when church, guilds, etc., existed even before the National State came into being. The English writers Laski, Maitland and Cole, the French jurist, Duguit, and the German writer, Krabbe, are among the most important exponents of this doctrine. Krabbe says: "The notion of sovereignty must be expunged from political theory.' Laski remarks that 'it would be of lasting benefit to Political Science if the whole concept of sovereignty were surrendered'.

STATE AND OTHER ASSOCIATIONS

How do these thinkers argue their case? They say that the State is not superior to other associations in society. It is only one association among other associations such as family, church, trade-unions, etc. These associations are as natural and essential as the State itself. They play an important part in the life of the community. They serve common ends—social, moral, intellectual, economic, etc.—of individuals. Common needs satisfied by these associations are not less important than those satisfied by the State. Because of this increasingly important role which groups or associations play in modern life, more attention should be paid to their rights. The emphasis must shift from "Man *versus* State" to "Group *versus* State". As a matter of fact, there is no reason why the State should be given any preferential treatment and supreme powers of control over other associations in society. The various associations and groups have not been created by the State. Nor do they depend upon the State for their existence. Some associations (family, for example) are even prior to the State. Members of a particular association are as much loyal to their association as to the State. If their association comes into conflict with the State, it is just possible they may stand by their association and oppose the State. According to Laski, the State is only one among many forms of human associations and has no superior claim to the individual's loyalty. The loyalties of an individual are many or plural.

Again, the State is not competent to meddle with the specialised functions of groups. For example, an economic association understands the economic needs of its members better than does the State, and can look after them more efficiently. The pluralists, therefore, hold that the State should not be given any supreme power over other associations. The various associations must be treated with the State on the basis of equality and should be allowed complete autonomy in their affairs. This is the main pluralistic attack on the traditional view of the sovereignty.

LIMITATIONS IMPOSED BY INTERNATIONAL LAW

The second line of pluralists attack on the orthodox or traditional view of State sovereignty is based upon the ideas of internationalism. The pluralists argue that sovereignty of the State is not absolute because it is limited by the rules of international law. No civilised State today violates or can violate such rules in actual practice. The sanction behind international

law is the same as that behind ordinary law of the State viz., public opinion. Sovereignty of the State in the external sphere is therefore breaking down.

Moreover, in the words of Laski, "The notion of an independent sovereign State is, on the international side, fatal to the well-being of humanity". For international peace, it is necessary for the sovereign States to agree to the principle that in common matters they will stand by the decision of some common international authority.

WRONG CONCEPTION OF LAW

Duguit has attacked the sovereignty of the State from a different point of view. He says that the definition of law as given by Austin and others of the analytical school is too narrow. According to Austin, law is a command of a superior and that only a sovereign State can make laws. Duguit holds that law is not the creation of the State. A law is a rule of conduct which men observed even before the State came into existence. Every State has laws which have come down in the form of customs and traditions of the people. The State has simply codified them. As the State has to preserve these laws, its sovereignty is limited by these laws. Again, we obey a law not because we are afraid of the State which will punish us if we disobey the law. Force is not the sanction behind law. We obey a law because it satisfies certain social needs. A law, which goes against the moral values of the people, will not be obeyed by them even if it were created by the State.

COMMENTS

It is true that the role of groups in modern life is very important and they deserve greater autonomy in their respective spheres, but all the same they cannot be placed on terms of equality with the State. If these groups come into conflict with one another, there should be a coordinating body to resolve their conflicts and the State is already discharging this function. It is in the interests of the groups themselves that their conflicts shall be settled amicably, and this is possible when there exists a State not on the same footing with other associations but which is capable of exercising over-riding authority and even coercive power, if necessary. If pluralism were translated into practice, social life would become chaotic. Sovereignty of the State is a vital necessity. Gilchrist rightly says: "Driven to its logical end, pluralism would disintegrate society, replacing order and the conditions of progress by a chaotic mass of bodies or groups, all contending for supremacy. The monistic doctrine on the other hand, provides for unity and order. Sovereignty of the State with its two aspects—legal sovereignty and political sovereignty—is simple and logical. It assumes the unity of the State, and at the same time it recognises the forces which lie behind the State will."

Again, international law at present cannot impose real restrictions on State sovereignty. If a powerful State chooses to violate the rules of international law, it can do so with impunity. It can only be hoped that in future the restrictions imposed by

international law will become real and sovereignty of the State in the external sphere will break down completely.

Lastly, Duguit's attempt to make law superior to the State is futile. It is true that every law is not made by the government, the machinery of the State, but it is certainly within the legal power of the State to change or not to preserve a particular law.

To sum up, the pluralists have rendered a great service in pointing out the increased importance of associations and their vital role in modern society. Their plea for recognising these associations as co-equal of the State cannot, however, be accepted. The State has come to assume the supreme status through a historical process and must continue to hold it in the interest of society. Laski himself accepts the essence of the traditional theory of State sovereignty. He says : "We cannot leave the groups within the community to define their rights by conflict any more than we can permit individuals to determine their rights. We must live by common rules. We must build an organ which enforces and interprets those common rules". Thus Laski really feels the need of a supreme authority within a society and indirectly admits the inherent **weakness of pluralism.**

POINTS AT A GLANCE

1. Pluralism rejects the traditional view of sovereignty that it is absolute and indivisible.

2. Pluralists attack this view of sovereignty on three grounds.

(*a*) *The State is only one association among many associations. Family, church, trade, unions, etc., are as much important for the welfare of individuals as the State. Sovereignty therefore shall be divided between the State and other associations.*

(*b*) *There can be no world peace if the conception of absolute sovereignty in the international sphere is not given up.*

(*c*) *Definition of law as a command of the superior to his inferiors is too narrow.*

3. The pluralist position cannot be accepted in toto because the State has to act as a coordinating agency. It can perform this function only when it has supremacy over other associations.

SUGGESTIVE QUESTIONS

1. Define exactly what you understand by sovereignty. How far can sovereignty properly be said to belong to the people ?

2. Explain (a) legal sovereignty ; (b) political sovereignty ; (c) popular sovereignty.

3. Examine carefully the doctrine of popular sovereignty.

4. Write an essay on pluralism.

5. What is meant by sovereignty ? Is it absolute, or are there any limitations upon the exercise of sovereignty ?

6. "Behind the sovereign which the lawyer recognises, there is another sovereign to whom the legal sovereign must bow." Comment on this statement.

CHAPTER VII

CLASSIFICATION OF STATES AND GOVERNMENTS

25. Explain the various ways of classifying States or governments. Which of them is best suited to the modern condition?

Or

Do you agree with the criticism that the Aristotelian classification of States is unsuited to the facts of modern political organisation? On what principles would you classify States? **(*Important*)**

States of different character can be understood in a better way if they are grouped according to their resemblances, or distinguished by their differences. This involves the question of classification.

The State possesses four essential features *viz.*, population, territory, government and sovereignty. Classification of States may be attempted on the basis of differences in one or more of them. On the basis of the size of territory and of population, States may be classified as big States and small States, but such a classification cannot be very useful since it is not revealing enough. A good classification of States must throw some light on the character of States and the spirit of their working.

The basis of sovereignty or independence has been used to classify States as sovereign States, part-sovereign States, and non-sovereign States. Since there can be no State without complete independence or sovereignty, it is not a valid or scientific classification.

States have also been classified on the basis of differences in the forms of government. Since governments vary to a large extent in their form and organisation, they can serve as a useful criterion for classifying States. Government is the machinery through which the will of the State is formulated, expressed and executed. The so-called actions of the State are in reality actions of its government. To put it differently, the authority or sovereignty of the State is exercised by its government. It is government through which the welfare of the people is promoted, and the purpose of the State realised. The character of a State depends a good deal on how its government is organised and how it works. So, we can say that the classification of States is essentially a classification of governments.

Aristotle's Classification. The most popular among the oldest classifications of States is that given by Aristotle. It is based on two principles. First : the number of persons who exercise the supreme power, Second : the purpose for which power is used. If

power is used for the benefit of a ruler or rulers, the form is perverted If power is exercised in the interest of all, the form is normal. The second principle has an ethical flavour about it.

Aristotle presented his classification in the following way :

Rule of	In the Interest of All (Normal)	In the Rulers' Interest (Perverted)
One	Monarchy	Tyranny
A Few	Aristocracy	Oligarchy
Many	Polity	Democracy

Explanation. If power is used by one person for the common good, the State or government is called monarchy. If that person becomes selfish, monarchy no longer remains monarchy : it degenerates into tyranny.

If power is in the hands of a few persons, the State or government is called aristocracy. They rule for the good of the whole community. When they abuse their authority and govern for their own selfish ends, aristocracy becomes perverted and assumes the form of oligarchy.

In polity, power is in the hands of many people who use it for the common good. It becomes 'democracy' when power is used by the many to oppress the few.

Aristotle, gave not only a classification of States or governments, but held that monarchy, tyranny, aristocracy, oligarchy, polity and democracy regularly and constantly followed one another. He says that with the degeneration of the character and aims of the king, monarchy assumes the form of tyranny. The tyrant is overthrown by a powerful and enlightened body of citizens and in this way aristocracy comes into being. This again degenerates and lapses into oligarchy. Then the citizens as a whole revolt against it and establish polity In course of time, polity is converted into democracy. The excesses of democracy are brought to an end by an all-powerful warrior statesman who establishes himself as a king. Thus the cycle has run its course and starts again. This natural evolution of States as described by Aristotle has been called Aristotelian Cycle.

Aristotle laid down this theory of political change on the basis of the history of Greek City-States Recent history also furnishes illustrations of Aristotelian Cycle. In the 18th century, the French monarchy had degenerated into tyranny. It was overthrown by the revolutionary movement (1789 –1792). During the revolution, power was exercised by an enlightened minority (aristocracy). The aristocracy soon proved itself to be selfish. It assumed the form of oligarchy. It was overthrown by extremists and a polity based on universal suffrage was established. The polity developed into democracy (in the Aristotelian sense). This was brought to an end in 1799 by the emergence of a military monarch—Napolean.

COMMENTS

Aristotle draws a clear distinction between aristocarcy and oligarchy. But these days we do not differentiate between the two. We regard these terms as synonymous, and they mean a State or government in which political power is exercised by a few wealthy people. Moreover, democracy is considered to be the best form of government today. For polity, the term democracy and for democracy the term 'mobocracy', should be used.

The main criticism against Aristotle's classification is that it is not applicable to modern governments. His classification does not embrace forms like limited monarchy, unitary and federal governments, parliamentary and presidential governments, etc. This is due to the fact that Aristotle had seen only "City-States" of his own times. He could not possibly foresee the vast size of States and complicated forms of government as they exist today. For this reason, Aristotle's classification is evidently defective and cannot be applied to modern States. Modern States are very complex. Their governments cannot be grouped neatly into simple categories.

The cycle theory is not wholly correct. It is not applicable in all cases. Revolutions are not inevitable and it is not necessary that forms of government will go on changing in some order. For example, it is not necessary that between monarchy and democracy all the intermediary stages must occur.

Some critics say that Aristotle's classification is unsound because it is quantitative rather than qualitative. This objection does not seem to be very weighty. His classification is as much based on quality as on number. He has definitely given a touch of quality to his classification by drawing a line of demarcation between normal and preverted forms.

Anyhow, the fact remains that his classification is not applicable to modern States.

MODERN CLASSIFICATIONS

Bodin (1530—1596), the first comprehensive political thinker of modern times, classified States or governments as monarchies, aristocracies and democracies, depending upon whether the sovereign power was vested in one person, in a minority of citizens, or in a majority of citizens.

Hobbes (1588—1679) adopted Bodin's classification and said that there could be only three forms—monarchies, aristocracies and democracies.

Locke (1632—1704) also divided governments into monarchies, aristocracies, and democracies, considering the location of legislative authority as the fundamental test. He viewed the executive and the judiciary dependent upon the law-making body.

Montesquieu (1689—1775), the French writer, classified governments as despotisms, in which an individual ruled in an arbitrary manner ; monarchies, in which an individual ruled according to law ; and republics, in which the people had the sovereign power. He further said that a republic might be either democratic or aristocratic.

Rousseau (1712—1778), a contemporary of Montesquieu, divided governments into monarchies, aristocracies and democracies. He further said that there could be a mixed government also—a government combining monarchic, aristocratic and democratic elements.

Bluntschli, a German writer, adds a fourth form, theocracy, to the classification given by Aristotle. He says that theocracy is government in which the ruler is supposed to interpret the will of God and its perverted form is idolocracy.

All these classifications are not applicable to the governments or States that we see in the world today.

Classifications given by Marriot and Leacock are regarded as quite satisfactory.

Morriot's Classification. He adopts a three-fold basis—(*a*) The relation between the central government and the governments of parts or divisions (provinces, etc) of the States. If the entire governmental power belongs to the Centre, the State or government is unitary. If powers are divided by the Constitution between the central government and the governments of the parts of the State, the State is federal; (*b*) the nature of the Constitution—whether it is rigid or flexible. The Constitution is flexible if the ordinary law-making body has the authority to amend it. The Constitution is rigid if it cannot be amended by the legislature according to the ordinary legislative procedure; (*c*) the relation between the executive and the legislature. If the executive is superior to the legislature, the State or government will be regarded as despotic. If it is co-ordinate with the legislature, the form is presidential. In the United States, for example, the executive is co-ordinate with the legislature. If the executive is subordinate to the legislature, the form is parliamentary. In Britain and India, the executive is subordinate to the legislature. It has to resign whenever the legislature passes a vote of no-confidence in it.

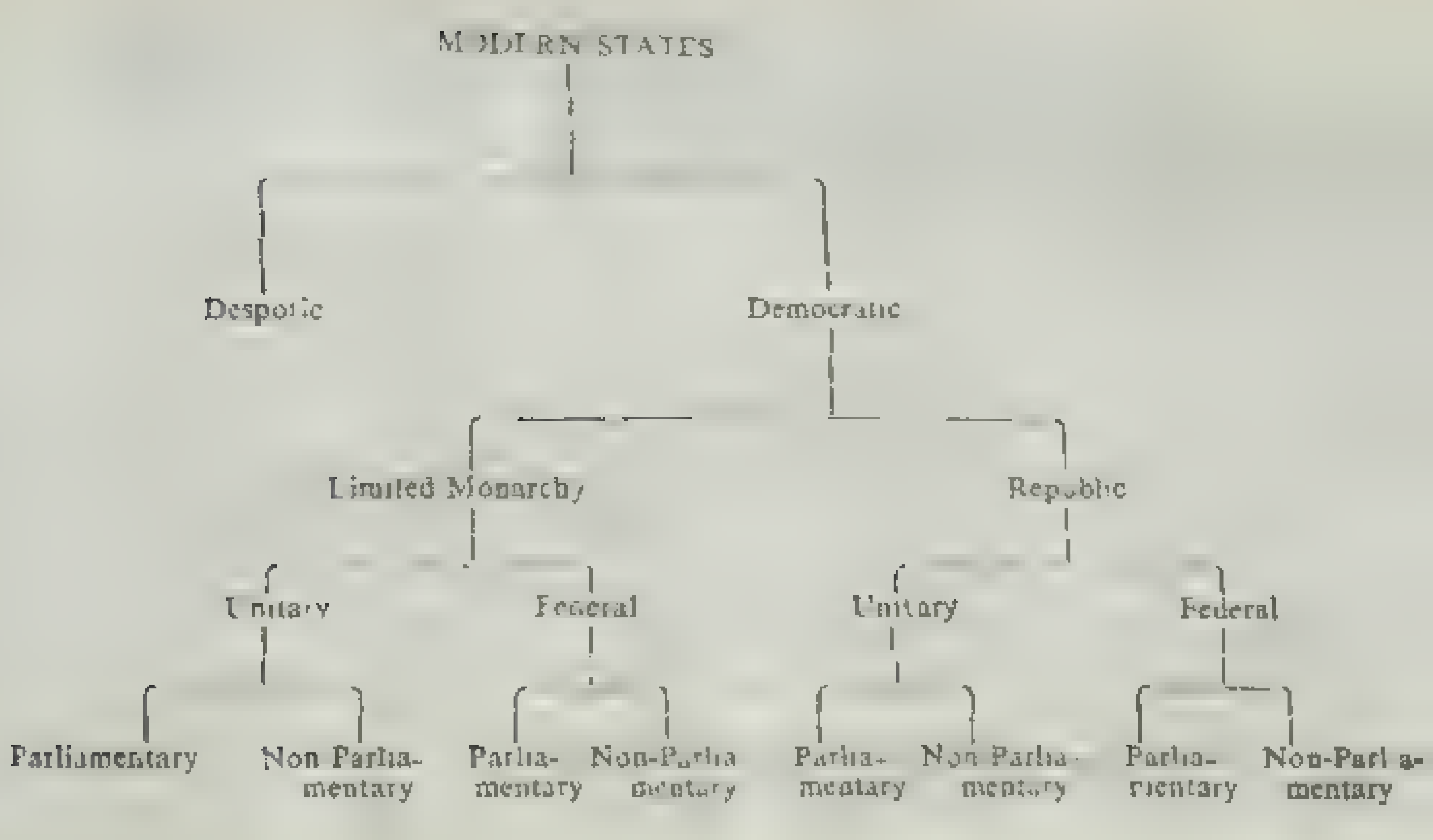
The Classification given by Leacock is comprehensive enough and can suit our purpose adequately. His classification is as follows :—

Despotic and Democratic. In a despotic State, the will of one man is supreme. He rules according to his own sweet will. He does not care for the opinion of the people. In a democratic State, supreme power belongs to the people. They rule themselves directly or choose their own representatives for this purpose. The basis of this classification is the location of the supreme power.

Limited Monarchy and Republic. On the basis of the head of the State, democratic States have further been divided into "limited monarchies" and "republics." In a "limited monarchy", the head of the State is a hereditary king with limited powers, of course. A "republic" has an elected head of the State, who is usually called the President. While England is a limited monarchy, India is a republic.

Unitary and Federal. On the basis of distribution of powers, States may be classified as unitary and federal. A unitary State is one in which all powers are concentrated at the Centre.

Leacock's Classification



Regional governments may have certain powers but only those as delegated to them by the Centre. They do not enjoy any original and autonomous powers.

In a federal State, powers are specifically distributed between the Centre and regions or units. The powers are mentioned in the Constitution of the State. The Centre cannot interfere in the affairs of the units. Nor can the units encroach upon the powers of the Centre.

England and the U.S.A. are examples of unitary and federal States respectively.

Parliamentary and Non-Parliamentary. On the basis of the relation between the legislature and the real executive States are classified as parliamentary and non-parliamentary ones. In the parliamentary system, real executive authority is exercised by a Cabinet of Ministers appointed by the head of the State in consultation with and at the recommendation of the leader of the majority party in the legislature. The Cabinet is responsible to the legislature. India and England are Parliamentary States.

In the non-parliamentary or presidential type, the real executive is elected for a fixed number of years. It cannot be removed from office by the legislature before the expiry of its term. The legislature cannot normally interfere in the executive sphere. The United States of America is an example of this form. The American President exercises real executive powers. He is elected for a period of four years. The American Congress cannot dismiss him before the expiry of the fixed term.

It may be mentioned here that sometimes the parliamentary form of government may have a President as head of the State—for example, India. But that does not make the State or government presidential. The real basis of this classification is the relation between the *real* executive and the legislature.

POINTS AT A GLANCE

1. States may be classified on the basis of their essential elements, population, territory, government and sovereignty.

2. Classification on the basis of population and territory is not very useful. Classification on the basis of sovereignty is not valid. Differences in the form of government provide the only useful criterion. The classification of States is essentially the classification of governments.

3. The oldest classification is that given by Aristotle. His criteria were: (a) the number of persons possessing the supreme power in the State; (b) purpose of the State. According to him monarchy, aristocracy and polity were the normal forms. Tyranny, oligarchy and democracy were their perverted forms. His classification is not applicable to modern States or governments.

4. Other writers have also classified States. Of these, the classifications given by Marriot and Leacock are regarded as the best. Marriot gives a three-fold basis for classifying States: (a) Distribution of powers—unitary or federal; (b) nature of Constitution—flexible

or rigid ; (c) the relation between the legislature and the executive—despotic, presidential or parliamentary.

5. Leacock classifies States as despotic and democratic. The basis of the classification is the location of supreme power. Democracies are sub-divided into limited monarchies and republics. The basis of this sub-division is the head of the State. Each of these two is further divided into unitary and federal types. The basis of this division is distribution of powers. Unitary and federal States are further divided into parliamentary and presidential or non-parliamentary types. The basis of this division is the relationship between the legislature and the real executive.

SUGGESTIVE QUESTIONS

1. What is Aristotle's classification of States ? Is it applicable to modern States ? If not, suggest some suitable classification of modern States.

2. Write a short note on Aristotelian Cycle.

3. Attempt a classification of government, explaining, the basis of your classification.

CHAPTER VIII

MERITS AND DEMERITS OF THE VARIOUS FORMS OF GOVERNMENT

outline

Monarchy

Aristocracy

Democracy

Parliamentary and Presidential Governments

Unitary and Federal Governments

Dictatorship

In the preceding chapter, we classified States and governments and discussed some of their basic features. In this chapter, we shall make a detailed study of the various forms of government.

26. What is monarchy ? What are its merits and defects ? Also write a short note on aristocracy.

Monarchy is that form of government in which the supreme and final authority belongs to one person who is not subject to any legal limits. Monarchy generally is hereditary, but sometimes the king may be elected. The system of electing king prevailed in ancient Rome. A king may have seized the throne by force also in that case he would be called, by some political philosophers of the past, a 'tyrant'.

Monarchy from the standpoint of its powers can be classified as (a) absolute monarchy and (b) constitutional or limited monarchy.

Absolute monarchy is one in which the monarch is actually the sovereign. This means that he should not only possess supreme powers but also exercise them effectively. He is the source of all legislative, executive and judicial powers in the State. Absolute monarchy is the oldest form of government. It was most common in early societies. The term 'monarchy' is generally used in the sense of absolute monarchy.

Limited or constitutional monarchy is that government in which the supreme governing authority is vested in the king but there are definite constitutional limits to his authority. His will is not supreme. He acts in accordance with the rules and limitations laid down by the Constitution of the country. He enforces only those laws which are passed by a Parliament representing the people. In the field of administration, he does not take any step of his own accord ; he acts on the advice of Ministers who are members of Parliament and are responsible to it for their policies and actions. In short, in limited monarchy, the king only reigns. He does not rule.

Merits of Absolute Monarchy. This form of government is the oldest in the world. Almost all primitive peoples began their civilised life with an absolute monarch as the head of the State. Often this form of government is accompanied by the belief in the

divine origin of the king or the divine rights of the king. The advantages claimed for this form of government are as follows :—

1. Its organisation is very simple.

2. It can act quickly and vigorously.

3. It can maintain a consistent and continuous policy.

4. The king is above party politics. He is able to rule impartially for the benefit of all.

5. It is very suitable for people just emerging from the state of primitive barbarism. Only as absolute monarch can put such people on the path of peaceful and civilised life.

Demerits In spite of merits mentioned above, absolute monarchy suffers from the following defects :—

1. Experience shows that a despot often rules for his own benefit and ignores the interests of his people. As a matter of fact, no one is really good enough to be entrusted with absolute power. Power corrupts man and absolute power may corrupt a monarch absolutely.

2. There is no certainty that a good king will be succeeded by another good and wise ruler. It is very rarely indeed that the son of a good monarch inherits the qualities of his father and follows his example.

3. A king may be very efficient. But administrative efficiency is not the only element of a good government. A good government is one which cultivates active and enlightened citizenship. Absolute monarchy keeps the governed out of all shares in the government. It cannot, therefore, create and stimulate in the people an active, intelligent and alert citizenship. The people have no freedom, and in such an atmosphere individuals cannot be their best selves.

In modern times, monarchy seems to be a rapidly declining system. The surviving monarchies of Europe are constitutional and limited. The real power there resides in elected Parliaments and Cabinets.

Merits of Limited Monarchy :

1. The principle of limited monarchy is the same as that of a republic. In both these forms, power belongs to the people or their representatives. The king only reigns, he does not rule. He does not stand in the way of the people.

2. A king inspires loyalty to government. It is easy for the people to give loyalty to an individual than to a Parliament.

3. An intelligent king can help his Ministers with his long experience and sound advice.

4. The king's presence creates a general sense of solidarity and unity. For example, in Great Britain, the Queen acts as a bond between Great Britain and the other parts of the Commonwealth.

The defects of limited monarchy are not very serious. The monarch does not exercise any real authority. The only objection

to this form of government is that the principle of hereditary succession is defective. There is no certainty that a king would be succeeded by an efficient and wise ruler.

(*d*) **Aristocracy.** Aristocracy means government by the few. It is that form of government in which the supreme governing power is placed in the hands of a few persons. The few persons rule over others because of their superiority of birth, education, wealth, etc. Aristocracy of wealth is called plutocracy. Recently, minority rule has been described as government by "elite". This term means a select class of persons who are fit to rule over other classes. Mussolini and his Fascist followers regarded themselves as an 'elite'. They thought that their ability and temperament gave them the right to rule over Italy and lead her to greatness. Hitler and his Nazis also referred to themselves as an elite because of their character and discipline. They also believed that they were of pure Aryan racial stock.

The term 'aristocracy' is derived from the Greek word *Aristos*, meaning the best. The Greeks believed that aristocracy was the best form of government. Aristotle, for example, regarded artistocracy as a normal form of government in which a few persons, possessing the supreme power, ruled in general interest. He regarded oligarchy as a perverted form of aristocracy. But today no distinction is drawn between aristocracy and oligarchy. Both are used in the same sense. Aristocracy is regarded by the modern mind as a government by a privileged class in its own interest.

Strength of Aristocracy. An aristocratic government is known for its moderation. Under monarchy, the happiness and welfare of the people is dependent on the whims of one individual. Under democracy, important government policies are often determined by the passions and emotions of the multitude. Aristocracy avoids both these extremes. It distrusts rapid changes and hasty political experiments which may prove detrimental to the welfare of the people.

Another advantage of aristocracy is that it is efficient and strong. Administration is in the hands of these endowed with political genius and ability. This type of government attaches importance to ability, training and experience. It seeks to secure the services of able persons. John Stuart Mill says: "Historically aristocracies have been remarkable for sustained mental ability and vigour in the conduct of public affairs."

Weakness of Aristocracy. Undoubtedly, aristocracy possesses certain virtues, but it has serious defects also. Its first weakness is that the selection of persons, who are best fitted to govern, is difficult. What is the criterion of finding political ability and fitness ? The test of birth is obviously most unsatisfactory. There is no guarantee that the son of an able administrator or legislator will inherit his ability also. The son of a mathematician may not be a mathematician. The test of wealth is equally unsatisfactory. There exists no relation between wealth and political ability. There are many examples of poor persons who, when given a chance, proved to be very able administrators and

legislators. So, it is very difficult to find a sound test by which politically able persons can be sifted from the unfit.

Secondly, there is no guarantee that the few will rule in the interest of all, and will not misuse their powers. It has often happened that they ruled for their selfish ends and, left the people to their fate Aristocracy becomes oligarchy *i.e.*, the rule of the few for their own benefit and not for the benefit of the people at large.

Lastly, the spirit of initiative and freedom becomes dead in the people, for they cannot get opportunities to take part in the activities of the government. They do not get political training and thus a big gap is caused in the civic and political life of the people.

POINTS AT A GLANCE

1. A government is called monarchy if the supreme governing power of the State is in the hands of a king.

2. Absolute monarchy is that form of government in which a king not only possesses unlimited powers but also exercised them effectively. In limited monarchy real powers are exercised by the people or their representatives.

8. The advantages claimed for absolute monarchy are : its organization is simple ; it is very prompt in taking action ; it can maintain a consistent policy : it is suitable for primitive people.

4. The defects of absolute monarchy are : a king is often selfish ; there is no certainty that a good king will be succeeded by a wise ruler ; it cannot cultivate enlightened citizenship which is one of the aims of the State.

5. Merits of limited monarchy are : the king is not a hurdle in the way of democracy ; a king inspires loyalty to government ; an intelligent king with a long experience can be of great use to his Ministers: a king is a bond of unity.

6. The demerit of limited monarchy is that the hereditary principle of succession is very defective.

7. A government is called aristocracy if the supreme political power is exercised by a few persons having superiority of birth, education, wealth, etc.

8. The merits of aristocracy are that it emphasizes quality rather than quantity, and is moderate in its policies and actions.

9. The defects of this form of government are : it is difficult to find out the best men ; it does not give any facility to the people for political education ; there is every possibility that the few persons who exercise the supreme political power may become selfish and may ignore the welfare of the people.

DEMOCRACY

27. What is democracy ? What are its merits and demerits ? What conditions are necessary for the success of democracy ?

Or

"Democracy is both the best and the most difficult form of government. Discuss the statement and point out ways to remove defects observed in the working of democracy.

(*V. Important*)

Democracy is the ideal of political philosophers today. Its popularity is clear from the fact that even dictators and despots choose to call themselves 'democrats'.

But what is democracy? It is perhaps the vaguest political term in our dictionary; it eludes accurate definition. It is interpreted differently by different writers. To some, democracy is a condition of society; some speak about economic democracy; others treat it as merely a form of government. A society is democratic if it is based on the principle of fraternity. In such a society, distinctions based on caste, religion, sex, etc. do not exist. Caste system, untouchability, provincialism, linguism communalism, etc. are the very negation of democracy. Democracy believes in the spiritual dignity and moral worth of every member of society.

In its economic aspect, democracy means suitable distribution of wealth. It looks with disfavour on inequalities of wealth which should be removed. Wealth must not be concentrated in the hands of a few persons. The basic needs of the majority of people must be satisfied before a few are allowed to possess superfluity of wealth.

In this question, however, we are mainly concerned with political democracy or democracy as a form of government, though this aspect of democracy cannot be completely divorced from its social and economic aspects.

A democratic government is one in which the community as a whole, directly or indirecty, has a share in the affairs of the State. Seeley defines democracy as 'government in which every one has a share'. Lord Bryce defines it as 'a form of government in which the ruling power is largely vested not in any one individual or in a particular class or classes but in the members of the community as a whole'. In his classic definition, Abraham Lincoln called democracy as 'government of the people, for the people and by the people'. This defintion is an admirable summary of the political side of democracy. The expression 'government of the people' means that there must be a government, an authority, which reaches all the sections of the people and allows no disorder or anarchy. In this sense every government (monarchy, aristocracy, etc.) is a government of the people. The subjects of any type of government have, to render loyalty and obedience to it. There is however one important difference between democracy and other forms of government. In democracy, the people are subjects as well as rulers. The laws of the State are applicable to all. But this is not true in the case of other forms of government.

The expression 'for the people' implies that the government is run in the highest interest of all the people, not of any class or a few individuals. Any other form of government can also at least

claim that it is ruling in the interest of all. Even a notorious dictator may profess that he is ruling not in his own interest or in the interest of a particular class but in the interest of all the sections of population.

But it is only democracy which has the right to say that it is a government 'by the people'. It is a government by the common man—a government in which the people, either directly or indirectly, decide or influence their own affairs.

FORMS OF DEMOCRATIC GOVERNMENT

Democracy is of two forms: (*a*) direct or pure; (*b*) indirect or representative. In direct democracy, the people take part in the affairs of the State directly. They assemble together and make laws for themselves. Such a system was possible only in City-States of ancient Greece. Direct democracy pre-supposes that citizens can assemble and vote directly on each measure or law, a thing which, in a large modern State, is not possible.

The only alternative to direct democracy is representative or indirect democracy. This is the only workable form of democracy in large States of the present day. The task of the people in this form of democracy is not to rule directly but to choose their rulers wisely. They can criticise them if they pursue defective policies. They can change the rulers, if need be.

The following are the essentials of this type of democracy:

1. **Universal Suffrage.** Every adult citizen must have the right to vote at elections. He must be entitled to express his views upon who the law-makers ought to be.

2. **Fair and Free Elections.** Elections must be free and fair. There must not be any supervision of how the franchise (right to vote) is exercised. In other words, the ballot must be secret to safeguard the voter against intimidation.

3. **Frequent Elections.** Elections must be held with reasonable frequency and regularity.

4. **Majority Rule.** It is agreed in democracy that the majority has the right to rule. Thus in Great Britain, the 'Government' (executive) is formed by the leader of the majority party in the House of Commons. In the U.S.A. the Presidency is decided by the majority in the electoral college. In India, the 'Government' is formed by the leader of the majority party in the Lok Sabha.

5. **Presence of Opposition.** The existence of a legal Opposition is essential in a true democratic government. In this respect, democracy differs from dictatorship. Mere elections do not make a government democratic. There may be much voting and talking in dictatorships, but there is no place for an Opposition. A dictator punishes the faintest whisper of opposition in the most savage manner. The existence of the Opposition carries with it the notion of political party system. Democracy requires the existence of several, at least two, political parties. One-party States are not democratic, even if democratic machinery is ostensibly used 'in the

shape of elections, parliamentary votes, etc. The ruling party must be ready to withdraw from powers in favour of the Opposition, if the Opposition becomes able to form the 'Government' by gaining a majority.

6. **Basic Rights.** The people must possess basic rights—security against arbitrary arrest and imprisonment, freedom of thought and speech, of the press, of assembly, of association (i.e., the right to form parties, unions and any other associations), etc. These rights are the basis of democratic government. Denial of these rights would amount to the negation of democracy.

It must be borne in mind that democracy is not merely a political institution. It also implies a certain fundamental attitude on the part of the rulers and the ruled. They must keep to certain rules based on the dignity and freedom of the individual with determination. Democracy requires democrats to work.

DEFENCE OF DEMOCRACY

A democratic government is defended on many grounds. The main arguments in its favour are as follows :

1. **General Welfare.** Democracy can promote the welfare of the masses in a better way than it can be done by any other form of government. The reason for this is that the rulers under this system are subject to the control of the people. They cannot afford to ignore the interests of the people on whose support they depend. Democracy is much more sensitive to the sufferings of the people than any other government can be. It stands for the greatest good of the greatest number. It creates such conditions as enable the common man to lead a healthy and decent life. To quote George Bernard Shaw : "Democracy means a social order aiming at the greatest available welfare for the whole population and not for a class."

2. **Moral and Educative Value.** From the idealistic standpoint, democracy has been defended because of its immense moral and educative value. Under no other form of government, there is a system of rights for the individual which gives him opportunity for self-development. Welfare of the individual does not consist merely in possession of the material means of life—of more and better food, clothing and shelter. Perhaps even a dictator can also arrange for a plentiful supply of material things. But the spirit in man is suppressed by dictators. Efficiency is not the only test of a good government. A good government is that which helps an individual to develop his personality. Democracy is a good government because it makes possible a degree of moral and intellectual freedom which is not possible under a despotic regime. It develops the initiative of the people and their sense of responsibility. It makes them public spirited. Active participation in the national affairs raises the mental level of a citizen. Thus, the moral and educative value of democracy is immense.

Less War-like. Another advantage of democracy is that it is likely to be less war-like than a despotic government. A

dictator or an absolute monarch, intoxicated with the wine of power, wants to increase the sphere of his power. He suffers from lust for power. He always tries to annex new lands. Democracy had a greater love for peace because it is based on popular consent. Ordinary people know full well that the consequences of a war will fall upon them. So, when power is in the hands of the people, there is much less likelihood of a war-like policy than there is under an autocratic regime. Bertrand Russel says: "A greater love for peace is one of the advantages of democracy over other forms of government."

4. **Prevention of Large-Scale Atrocities.** Holders of power are always and everywhere indifferent to humanitarian considerations. A dictator or a despot does not respect human life. In order to remain in power, he will crush all opposition. Hitler's atrocities are too notorious to need recapitulating. The world was horrified by his ruthlessness. He detained millions of political opponents and Jews in concentration camps where most of them were systematically starved or worked to death. It is estimated that 500,000 Germans (not counting Jews) passed through the Nazi concentration camps. Bertrand Russel says: "I value democracy because where it exists such horrors are scarcely possible."

5. **Liberty and Authority Reconciled.** Democracy reconciles liberty of the individual with the authority of the State. Laws of the State are based on the consent of the people. People therefore give their willing obedience to the laws, and feel that their liberty is not curtailed by doing so.

6. **Averts Revolutions.** It is claimed on behalf of democracy that it reduces the chances of violent revolutions. If the people are discontented, they can peacefully change their rulers. In other forms of government, discontented people have no remedy except rebellion.

7. **Promotes Patriotism.** Democracy makes people patriotic. It makes them feel that they are an integral part of the government. If people have no voice in the government, they are likely to be indifferent to the affairs of the nation. If the people are indifferent to public affairs, if they do not love their country, there can be no healthy national life.

CASE AGAINST DEMOCRACY

Democracy is regarded as the best form of government. But even this government has its critics, indeed very severe critics. It has been criticised from various view-points. Some call it a cult of incompetence; others accuse it of being slow and costly; some criticise it on the ground that under democracy there can be no stability and continuity of policy; to some, political democracy without economic democracy is a myth. The following are the chief grounds on which democracy is criticised:

1. **Cult of Incompetence.** Democracy proceeds on the assumption that every person is as capable or intelligent as another. The power is, therefore, vested in the hands of the general body of

people. Critics say that the people at large are not educated. They are not intelligent enough to select the best man to lead them. No consideration is shown to knowledge, experience and training. Democracy attaches little importance to quality. Votes are counted, not weighed. Demagogues and agitators become the leaders of the people. Power, in consequence, comes into the hands of incompetent persons. Democracy is the cult of incompetence. Ignorant voters are not only useless for democracy but also harmful. Ignorance reduces democracy to a government of the cattle by the cattle and for the cattle.

Democrat's Answer It is wrong to say that the masses are ignorant and foolish. The fact is that they have a large fund of commonsense. They can easily distinguish between good and bad leaders. Abraham Lincoln had full faith in the commonsense of the common man. He said: "You can befool some people for all the time. You can befool all the people for some time. But you cannot befool all the people for all time." These words contain good deal of truth in them.

Moreover, democracy gives more facilities to the people for their education than it is done by any other form of government. In most of the democratic countries, illiteracy has been banished. If democracy were a government by incompetent people, how could it become so popular? Are the governments of the United States, Canada, Britain, Switzerland, and other democratic countries governments by ignorant people? (Certainly not.)

2. **Slow Government.** It has been found that in complex and critical situations, when quick decisions are essential, democracy with its leisurely discussion is more tardy than other forms of government. Before any action is taken, it has to be discussed in the legislature, and the valuable time thus lost impairs the efficiency of government Experience shows that eloquence in arguments at a time of crisis is a poor substitute for firmness.

But upholders of democracy reply that slowness of decisions is out-weighed by the firmer basis democracy gains in the people. Once a decision is taken, it has the whole body of citizens behind it.

3. **Expensive Government.** Critics of democracy have also pointed out the extravagance and wastefulness of this form of government. Frequent elections, propaganda, etc., entail a lot of expenditure. Further, what can be achieved cheaply under other forms of government involves a great deal of expenditure when done in a democratic way. A democratic way is definitely an expensive way of doing things.

4. **Weakness.** Another allegation levelled against democracy is that it is weak and cowardly. Legislatures and cabinets are always afraid of public opinion. Certain necessary laws are not passed simply because the rulers are not prepared to incur the displeasure of the voters. Their eyes are always fixed on the next elections.

5. **No Continuous Policy.** It is argued by critics that under this system it is difficult to follow a consistent policy over a period of years. Frequent changes in the government

make it difficult to carry out a consistent policy either in domestic affairs or in foreign affairs.

6. **Encouragement of Falsehood and Dishonesty.** Critics point out that democracy teaches vices. Dishonesty, falsehood and other bad things are encouraged. All sorts of tactics are employed to win elections. Voters are bribed. A poet has described the ways and tactics of a candidate in the following way :

When place and power, he hankers after,
His public spirit finds loud vent ;
He spouts utopia every minute,
And makes believe, he is Heaven sent,
The common man's anointed saviour,
When all the time, he is after votes,
No suitor out to win a rich damsel,
Commands the range of fibs he throats.

7. **Political Democracy—a Myth.** Many political writers maintain that democracy cannot flourish in an atmosphere of economic inequality. No doubt, the people have the right to elect their representatives, but in practice it is not possible for them to exercise this right effectively. Public opinion is influenced, rather manufactured, by press, platform, educational institutions, radio and films. All these agencies are controlled by powerful capitalists and financiers who make the people vote for their selfish interests.

According to these writers, the present form of democracy is just a sham or myth. Real democracy will function only if it is linked with economic democracy.

ESSENTIAL CONDITIONS FOR THE SUCCESS OF DEMOCRACY

It must be admitted that democracy is a difficult or delicate form of government It requires careful functioning both on the part of the people and their leaders. The success of democracy depends on certain conditions.

The first condition is that the people must be educated. They must possess a developed commonsense. This they can have only when they receive a certain standard of education. Ignorance and illiteracy of the people are the greatest enemies of democracy. Without an intelligent and properly educated electorate, there is every chance of leadership coming into the hands of undesirable persons. Extension of suffrage must be accompanied by the slogan 'Educate our Masters'.

The second condition for the success of democracy is that there should be no extremes of wealth and poverty in society. Democracy can work best in a society where economic differences are the least. If a few persons are enormously rich and the majority are miserably poor, democracy cannot succeed. For a starving individual a vote has no value. He cannot eat a vote, or drink it. It is necessary for a man to live before he can live well. It is rightly said that a man to thrive must keep alive. Hungry masses can fall an easy prey to slavery, if promised bread. Poverty of the people is an enemy of democracy.

The third condition is that people must exercise tolerance in their mutual relations. The principle of 'give and take'

should be cheerfully followed by different political parties, particularly, the majority party should not ignore the point of view and interests of the minorities. A discontented minority becomes a festering sore in the body-politic and will poison it. The minorities should also rely on the good faith of the majority. They should argue for their convictions and do what they can to make them the convictions of the majority. If they fail to do so, they should submit with a good grace. They must not go to the extent of dying or killing for their principles and convictions.

The fourth factor for the success of democracy is that political parties must be based on healthy political and economic principles, and not on sectional and communal differences. Democracy means rule in accordance with public opinion. It is, therefore, essential that the people should not be divided among themselves in such a way that the formulation of a common public opinion becomes impossible. Racial, religious, class and caste differences stand in the way of building up a real public opinion.

The fifth condition is that democracy in national sphere must be based on a vigorous system of local government. Local bodies are primary schools to the democratic university. They are the nurseries of democracy. The people should receive their first training in public life in the local self-government. This training will prove very useful when they participate in larger national affairs. To quote Bryce, " the best school of democracy and the best guarantee for its success is the practice of local self-government."

The sixth condition essential to the successful working of democracy is that the people must be vigilant. The price of liberty is eternal vigilance. The successul working of democracy depends on vigilant and well-formed public opinion. The people must zealously protect their rights and fight for them with determination. They must always keep in mind that " good government is no substitute for self-government." They must have real faith in democracy and be prepared to make every sacrifice for it.

Lastly, peace is essential to the success of democracy. War or fear of war cannot allow democracy to thrive. In abnormal times, people are generally panicky and they prefer to be governed by a strong man. Restrictions are imposed upon the people and their democratic freedom suffers.

No doubt, many defects are observed in the working of democracy. But that does not mean that democracy should be given up on account of its faults. What about other forms of governments such as monarchy, aristocracy and the like ? They were tried in the past and were abandoned because they possessed serious defects. If democracy is bad, other forms of government are worse. We cannot now go back to the past and try them again. C.D. Burns rightly says : "That existing representative assemblies are defective but even if an automobile does not work well, it is foolish to go back to a farm cart however romantic" It has never been claimed on behalf of democracy that it is a panacea for all ills. It is not a perfect form of government. It is a human institution and its failings are the failings of human beings. Such weaknesses are likely to

be overcome with growing experience. Most of the evils of democracy can be cured by fulfilling the conditions suggested above and it is important to note that democracy itself fosters some of these conditions. Even if some defects remain, it does not mean that democracy should be ended. The greatest strength and defence of democracy is that it rests on the worth of human personality. That is why Edward Carpenter says: "O Democracy, with all thy faults, I love thee."

POINTS AT A GLANCE

1. *Democracy is a very popular term today, and has been interpreted differently by different writers.*

2. *Socially, it implies an equal status for all in society; economically, it implies equitable distribution of wealth; politically, it means a type of government in which ultimate power vests in the people.*

3. *As a type or from of government it can be classified as (a) direct or pure democracy (b) representative or indirect democracy.*

4. *The essentials of representative democracy are: universal suffrage, fair and free elections, frequent elections, majority rule, presence of Opposition, and basic rights of the people.*

5. Merits *(a) promotes general welfare; (b) has immense moral and educative value; (c) large-scale atrocities are not possible; (d) liberty and authority are reconciled; (e) democracy averts revolutions; (f) promotes patriotism.*

6. **Demerits.** *(a) Cult of incompetence; (b) slow government; (c) weak government; (d) no continuous policy is possible; (e) political democracy is a myth; (f) encourages vices.*

7. **Conditions for its success.** *(a) Education of the people. (b) Absence of poverty. (c) Spirit of toleration and compromise. (d) Healthy political parties. (e) A vigorous system of local self-government. (f) Vigilance. (g) Peace.*

28. What are the main features of the parliamentary and presidential forms of government or executive? What are the main differences between the two types? Which of the two do you consider better and why? (*V. Important*)

On the basis of the nature of realtionship between the legislature and the real executive, democracy can be classified as (a) parliamentary and (*b*) presidential.

Parliamentary Government. It is a form of government in which the real executive, the Cabinet, is responsible for its actions and policies to the legislature, and remains in office as long as it enjoys the confidence of the legislature (of the lower or popular chamber, if the legislature is bicameral). If its policies do not receive the support of the legislature, the Cabinet must resign or it must dissolve the legislature to ascertain the opinion of the voters through new elections. Then the party obtaining a majority in the new legislature forms the Cabinet or 'Government'. This type of government is also called a Cabinet or responsible or ministerial

form of government. It is called a parliamentary form of government because the legislature or Parliament is considered to be superior to the executive or the Cabinet.

The main features of this form of government are as follows:

1. The State administered by this type of government possesses a titular or nominal or ceremonial head or chief. The government is legally carried on in his name, but actually he enjoys only a position of glory without any real power. The head of the State may be an elected president as in India, or a hereditary Monarch as in Britain, or a nominted Governor-Genearl as in the dominions like Canada and Australia.

2. The real executive authority is exercised by a Cabinet (a body of ministers) headed by the Prime Minister.

3. The Cabinet is immediately responsible to the legislature. This means that it is answerable for its policies and actions to the legislature and its tenure of office is dependent on the will of the legislature. The responsibility of ministers is collective. A vote of no-confidence in one minister is regarded as a vote of no-confidence in the entire Cabinet.

4. Members of the Cabinet are members of the legislature. They are taken from the party commanding a majority in the legislature. The leader of the majority party becomes the Prime Minister and on his advice other ministers are appointed by the head of the State. Thus the Cabinet is a homogeneous body. If no party in the legislature enjoys a clear or absolute majority, two or more parties join together to form the Cabinet. This type of Cabinet is known as a coalition Cabinet.

Presidential Government. It is a form of government in which the real executive powers are exercised by an elected President whose tenure of office is not dependent on the will of the legislature. The President is not only the head of the State but also of the executive. It is called presidential because in this system the President is the real head of the executive and of the State. This type of government is some times called a non-parliamentary government.

The main features of this form of government are :

1. The President, the head of the State, exercises real executive authority.

2. As the administration of the modern State cannot be run by a single person, the Persident appoints a number of ministers (in the U.S.A. they are called secretaries) to assist him in his works. The ministers are his subordinates ; he is their boss.

3 The President is elected for a fixed term. He cannot be turned out by the legislature before the expiry of that term. In other words, the President is not responsible to the legislature. Nor are his secretaries responsible to the legislature. They may be removed only by the President.

4. The President is not a member of the legislature, nor are his secretaries.

This type of government operates in the United States.

Differences. A careful study of the features of the two systems reveals the following differences between them :

1. Under the parliamentary system, the head of the State is only the nominal chief. In Great Britain where the parliamentary system operates, the Queen is the personification of the State but is not the ruler of the State. The real executive powers are exercised by the Prime Minister and the Cabinet. But under the presidential system, the head of the State is an effective head of the executive also. For example, the President of the United States exercises real executive powers.

2. The presidential system is based on the theory of separation of powers. This means that there is no direct contact between the legislature and the executive under the presidential system. This is clear from these facts : (*a*) Neither the President nor his secretaries are members of the legislature ; (*b*) they do not advocate before the legislature the adoption of legislative measures. They are mainly concerned with administration ; (*c*) the President and his secretaries do not resign if their policies are defeated by the legislature ; (*d*) the President cannot bring the legislature to terms by the threat of dissolution.

On the other hand, the legislature and the executive are entirely fused under the parliamentary system. How ? (*a*) All ministers are members of the legislature ; (*b*) they introduce all important bills in the legislature and get them passed with the support of a disciplined majority. They prevent the enactment of laws they do not want and from their seats in the legislature defend their policies and actions ; (*c*) the Cabinet has to resign or to dissolve the legislature if its policies are defeated by the legislature. In short, the relation between the executive and the legislature is one of close intimacy and interdependence.

3. The Cabinets under the parliamentary and presidential systems widely differ from each other. While forming his Cabinet, the Prime Minister cannot ignore the important members of his party. Members of the Cabinet are his colleagues in the real sense. The Prime Minister is only the first among the equals. He cannot easily ignore their advice on an important matter. Under the presidential system, the President is the boss of his Cabinet which is more or less an advisory body. He may even decide and announce important governmental policies without consulting his Cabinet. He can dismiss any member of his Cabinet without endangering his position. To quote Laski : "The President is the complete master of his Cabinet ; it exists only as an advisory body to him in whom alone the executive power legally resides. He may consult with it before taking action ; he may act against its advice ; he may act without consulting it at all. He may discuss matters of high importance with one or a few of its members, leaving the rest in complete darkness.

MERITS AND DEMERITS

Now let us see how these two systems differ from each other regarding their efficiency and utility. The advantages of the one

are often the defects of the other. The following advantages are claimed for the parliamentary system over the presidential one .—

1. **Harmony.** The parliamentary system ensures harmony between the executive and the legislature. Since members of the Cabinet are members of the legislature also, the two organs of the government are able to work in co-operation and harmony. The Ministers get an opportunity to bring to the notice of the legislature the needs of the country. The legislature can always make its views and wishes known to the executive. In this way a unity of purpose and intimate connection develops between them. The executive, which understands the needs of the country better, can always get necessary legislative measure passed with the support of the majority party. There is no working at cross purposes, and the executive and legislative organs are rarely at a deadlock.

On the other hand, the presidential system is based on the theory of Separation of Powers. This separation is injurious to both the legislature and the executive. Smooth working may become a serious problem especially when the President belongs to one party and the majority in the legislature to another party. To divorce the executive from the legislature is something unnatural. It leads to deadlocks and conflicts between the two important organs of government and injures the efficiency of administration. The President is not the leader of the legislative majority. He can never be certain that he will be the master of the legislature, even if his own party be in majority in the legislature. If like President Wilson in 1918 or President Truman in 1946, he finds the rival party in a legislative majority, he may find his policies doomed ; and even if, like President Hoover, his party is in majority in the legislature, he may still leave office as a disappointed man.

2. **Flexibility.** Some writers emphasize the merit of flexibility and elasticity in the parliamentary system. During sudden emergencies and national crises people can 'choose a ruler for the national occasion' as they chose Mr. Churchill during the World War II. One is not to wait for a new general election. Elasticity in a governmental system is a source of great strength in times of national emergencies.

The presidential system, on the other hand is rigid and is not able to adapt itself to changed circumstances. Death and impeachment apart, nothing can remove the President from office during the fixed term for which he is elected. There is no elastic element in the presidential system. The President may be too inefficient and weak to meet a critical situation, still he cannot be removed from office before the expiry of the fixed-term.

3. **Responsibility.** The parliamentary government has been rightly called a responsible government. It is the only form of government in which the responsibility of the rulers to the ruled is effectively enforced. The Cabinet cannot afford to ignore the wishes of the representative of the people. It is always aware of the fact that it can be thrown out by the legislature. If it

believes that its opinions and not those of the legislature represent the real wishes of the people, it may dissolve the legislature and hold free elections. The people will, then, decide whether or not they want the Cabinet to continue. Thus the parliamentary system effectively secures the responsibility of the 'Government' either to the representatives (the legislature) of the people or to the people themselves.

The defect of the presidential system is that it is irresponsible and autocratic. It is so because the President is independent of the control of the legislature and of the people. He may exercise his powers in any way he likes, but he cannot be removed from office. The legislature may criticise him. It may not pass the laws recommended by him, but it cannot deprive him of the powers that have been given to him by the Constitution. Nor can the electorate turn him out of office. The President is thus in a position to misuse his powers. This may lead to a serious situation in the affairs of the nation.

4. **Efficiency of Administration.** The parliamentary system improves the efficiency of administration a good deal. In this form of government ministers have their seats in the legislature. They have to answer searching questions put to them by members of the legislature. The system of putting question to the ministers is the means by which public grievances can be ventilated and redress secured. It is a very effective method of exposing the mistakes committed by ministers or by civil servants whom we call bureaucrats. Under the presidential system, the executive is cut off from the legislature. The executive does not come into constant touch with the Opposition. The President and his secretaries are not present in the legislature, and are not expected to answer any questions.

5. **Training of Rulers.** It is claimed on behalf of the praliamentary system that this system gives better training to national leaders and rulers than any other system can do. It enables men of ability and experience to prove their worth in parliamentary discussions and to be included in the Cabinet. The Prime Minister will always include in his team only those persons who have already been tested for practical statesmanship and who have shown outstanding ability in the debates of the legislature. It is said that the British House of Commons has produced many able leaders to guide the destinies of the nation.

Such an advantage cannot be claimed for the presidential system. Under this system, the President includes in his Cabinet generally those persons who are his favourites or friends. They are not the representatives of the people. Their knowledge and experience regarding public affairs is not so much as possessed by ministers under the parliamentary system.

6. **Educative value.** The educative value of the parliamentary system is much more than that of the presidential system. Under this system, problems facing the country are thoroughly discussed in the legislature. In Britain, people study parliamentary discussion of the House of Commons with great attention.

The debates throw a flood of light on the state of national affairs. On the other hand, people do not attach much importance to the proceedings of the American House of Representatives.

Let us now study the disadvantages of the parliamentary system and the advantages of the presidential one.

1. **Instability.** A serious defect of the parlimentary system is that the Government (executive) may not always be stable. This system works smoothly when there are only two strong parties in the legislature. The majority party forms the Government or Cabinet and the other party forms the Opposition. But the difficulty arises when there are many political parties in the legislature, and no party is in a position to command an absolute majority. So the 'Government' is formed on a coalition basis. A coalition Government is weak and unstable by its very nature. It cannot follow a strong, vigorous and continuous policy. The parliamentary system has almost failed in France. The reason for this is that in the French legislature there are many political parties and no party is in absolute majority.

Under the presidential system, the tenure of the executive is fixed. The executive is stable, and this leads to continuity in its policy. The President knows that he cannot be removed from office before the expiry of the fixed term. He is, therefore, in a position to plan long-term schemes and put them into practice. He can pursue a strong and continuous policy.

2. **Cabinet Dictatorship.** If the legislature is dominated by one party, there is a different danger—the dictatorship of the Cabinet. The entire programme of legislation and finance is shaped by the Cabinet. Ordinary members of the party in power have to support the Cabinet even if they do not like its policies and programmes. This is all due to the rigidity of party discipline and the power of dissolution in the hands of the Cabinet. The Cabinet is able to control the legislature completely and rule dictatorially. It is often said that the British Cabinet is virtually a dictator and Parliament or the House of Commons is subservient to it.

The advantage of the presidential system is that the legislature can always maintain its independent position. Even if the President's party is in majority in the legislature, there is no guarantee that the legislature will always follow the President blindly.

3. **Weak in Emergencies.** Another defect of the parliamentary system is that it is not so effective in time of emergencies and war as the presidential system. The reason for this is that the head of the Cabinet, the Prime Minister, cannot take quick decisions. He has to consult the Cabinet, and also the legislature. Difference of opinion among the Cabinet members on the one hand, and between the Cabinet and legislature on the other, can prove to be very harmful.

In times of war and emergency a quick action is needed. The advantage of the presidential system is that the President can act and act quickly without any obstacles in his way.

4. **Ministers Distracted from Executive Work.** In the

parliamentary form of government, ministers have to spend a great deal of their time in the legislature. They have to introduce bills in the legislature and guide them through various stages. They have to defend their position on the floor of the House and answer questions. This participation by ministers in the legislative work is a distraction and as a result of this their administrative work suffers.

Under the presidential system, the President is able to devote undivided attention to administration. The system thus leads to administrative efficiency.

Conclusion. What is the outcome of this discussion on the parliamentary and presidential system? Which system is better of the two? It is very difficult to give any definite opinion on this point. Both the systems possess certain merits and suffer from some defects. As a matter of fact, no type of government can be universally good or bad in itself. The fitness or unfitness of a government is always relative to the circumstances prevailing in a country. The presidential system perhaps suits the U.S A. which is a country inhabited by different communities with quite different interests. Under these circumstances, it is very difficult to secure a homogeneous two-party system. And without two well-organised homogeneous parties, the parliamentary form of government cannot be a success ; the executive is likely to be unstable. So it all depends on the circumstances of a country, on the political genius and traditions of its people whether a parliamentary or presidential form of government will suit it. It is however possible to say that the parliamentary system is more democratic than the presidential one. That explains why it has been adopted by most of the States today. It first took its beginning in England and from there it has spread far and wide. In India, we have a parliamentary government both at the Centre and in the States.

POINTS AT A GLANCE

1. The Cabinet or parliamentary form of government is a government in which the real executive is responsible to the legislature. This means that it has to resign whenever the legislature indicates its lack of confidence in it.

2. Its main features are—(a) Titular head of the State; (b) Cabinet—the real executives ; (c) responsibility of the Cabinet to the legislature ; (d) close relationship between the legislature and the Cabinet.

3. The presidential form of government is a government in which the real executive (the President) is independent of the control of the legislature.

4. Its main features are—(a) The President, the head of the State, exercises real executive powers ; (b) his secretaries or ministers are subordinate to him ; (c) the President is not responsible to the legislature ; (d) separation between the legislature and the executive.

5. The merits of the parliamentary system are harmony,

flexibility, responsibility, and efficiency of administration. Moreover, it trains rulers and has a great educative value. Its demerits are its instability, Cabinet dictatorship and weakness in emergencies. Moreover, ministers have to waste good deal of their time and energy in the legislature.

29 "A federation is the union of several States without unity." Discuss this statement and also the merits and demerits of a federation.

Or

Discuss the basic principles of federalism. Point out the strong and weak points of the federal form of government.

A federal form of government is a system of government in which the government authority is divided by the Constitution between the central government and the government of the regions (called 'states,' provinces, units, etc.) of the State. The units or regions have an autonomous status and existence. The powers that they exercise are not bestowed on them by the central government. They derive their powers from the Constitution. They are not at the mercy of the Centre. This form of government differs from the unitary type in which all powers are concentrated at the Centre : there is no constitutional distribution of powers between the Centre and the regions. For purposes of administrative convenience, the central government may delegate some powers to the regions. The powers of the regional government can be increased, decreased or even abolished by the central government whenever it likes.

A State in which the above governmental arrangement (division of powers between the Centre and the regions) exists is known as a federation or a federal union or a federal State. It is a State with autonomous units. *Federalism is a political contrivance intended to reconcile national unity and powers with the maintenance of "state" rights.* The component units of a federation do not give up all their rights or powers, and if they really do so, the results will be a unitary State and not a federation. They do not desire "unity" but only 'union" . Thus in the U S A., the 50 individual States are in no sense subordinate to the Centre in certain spheres. They enjoy certain autonomous powers bestowed upon them by the Constitution and the central government cannot interfere in their affairs. A federal system is always a compromise between two distinct sets of political forces. First : There is a desire for a union or united front. The desire is generally the result of pressing common interests and purposes. Second : There is the desire of each part to maintain its identity.

A federation comes into existence in the following two ways :

1. It may be formed by a number of independent or sovereign States which give up some powers in favour of a new common central government while retaining their separate identity with regard to the remaining matters or subjects. This is how the American federation was formed in 1789.

2. A federation is also formed when a unitary State breaks up into a number of autonomous units which later combine themselves into a union or a federation with a common central government. It is in this way that Canada was transformed into a federation in 1867.

(**Note**: It may be pointed out that use of the term "state" for the units of a federation is a misnomer. One of the essential characteristics of the State is sovereignty which is not enjoyed by the component states of a federation. By forming a union they lose their individual sovereignty and a new sovereign State emerges from this process. In India, the States of Uttar Pradesh, Bombay, Madras, etc., are States merely as a matter of country).

FEATURES OF FEDERATION

A federal State has the following features or characteristics :

1. **Distribution of Powers.** As stated above, federalism is a political contrivance intended to reconcile national unity and power with the maintenance of state rights. The states that compose a federation have a desire to enjoy the benefits of a common government in matters of general interest, but at the same time they insist on retaining their distinct identities and personalities. The basis of the federal idea is to have a "union without unity". Consequently, powers are distributed between the Centre and the units. Each government, federal or regional, is made independent and supreme within its own jurisdiction. One cannot encroach upon the sphere of the other. There can be no federation without distribution of powers between the Centre and the units.

Broadly speaking, there are two ways of dividing powers between the Centre and the units of a federation. One : The Powers of the Centre may be specified in the Constitution, and the remaining powers (residuary powers or unspecified powers) may be given to the units. This method has been followed in the U.S.A. Second : The powers of the units may be specified, and the residuary powers may be given to the Centre. In Canada, for example, the Constitution specifies the powers of the units and leaves the residue to the Centre.

The Constitution of India draws up three lists of powers.—the union list, the state list and the concurrent list. The Centre is given exclusive powers to legislate on subjects contained in the union list. Subjects given in the state list belong to the states exclusively. Both the Centre and the States can legislate on subjects mentioned in the concurrent list, but in case of conflict of laws in the concurrent sphere, the union law prevails. The undefined or residuary powers have been assigned to the Centre. The residuary powers, these days, are generally given to the Centre to make it strong.

2. **Written and Rigid Constitution.** The Constitution of a federation is written and rigid. Unless it is written, disputes may arise between the two sets of governments regarding their jurisdiction. The Constitution should also be rigid, that is, it should

not be allowed to be amended by the ordinary procedure of making laws. The method of amending a federal constitution should be a difficult one. The necessity of a rigid constitution arises from the fact that if the method of amending the Constitution is easy, the autonomy of the units can be easily curtailed. The units can never feel secure if the Constitution can be amended by the federal (central) legislature according to the ordinary legislative procedure. The Constitution is therefore regarded sacred, not to be tampered with easily.

3. **Independent and Powerful Judiciary.** Since in a federation there are two sets of government and though the Constitution defines their powers and jurisdiction, still, disputes may arise between the Centre and the units or between one unit and the other. So, every federation has a Supreme Court to interpret the Constitution and settle disputes. Such a court acts as the guardian of the Constitution. It sees that the national government and the state government do not exceed their powers. It is only an independent, powerful and impartial judiciary which can discharge this function successfully.

4. **Double Citizenship.** There is a national as well as a regional citizenship in a federation. For instance, in a federal State like the United States, a citizen owes allegiance both to the government of the State where he resides and to the government of the Centre.

5. **Bicameral Legislature.** In a federation the national legislature is bicameral, that is it consists of two chambers. The people and the units are given representation separately. The lower chamber is created for the representation of the people as a whole. The units get representation in the second chamber. They enjoy a status of equality in the second chamber. For example, in the U.S.A., every state, irrespective of its size and population, sends two representatives to the Senate, the second chamber of the national legislature called Congress.

To summarise, the following are the important features of a federation :—

(*a*) Division of powers between the Centre and the component units.

(*b*) A written and rigid Constitution which is supreme.

(*c*) Supreme Court which acts as the final interpreter and guardian of the Constitution.

(*d*) Double citizenship.

(*e*) A second chamber in which the component units are given equal representation.

[illegible]. [illegible] has been supported on the following grounds :

i. Its chief advantage is that it enables small States to unite peacefully and voluntarily into a powerful State. In this nuclear age it is essential for small States to combine into a strong union in

order to defend themselves against aggression and to pull their full weight in international affairs. To enjoy this advantage, they are not to sacrifice much. Even after forming a federation, they enjoy a good deal of autonomy in their internal sphere. If they continue to remain separate and isolated, they may easily be annexed by a strong aggressive State. In that case they will totally lose their separate existence and become vassal States. If small States like Belgium, Denmark, Norway, Czechoslovakia, etc., had formed a federation and not remained isolated, they would have put up a brave fight against Hitler. A federation, therefore, seems to be a good proposition for small States if they want to defend themselves in these days of international tension.

2. From the economic point of view also, federalism is a laudable proposition. As certain duties are performed by a common central government, the different units of a federation are able to save a lot by reducing the number of their departments. For example, they are relieved of their military and diplomatic expenditure. Again, a federation enables small States to develop their economic resources in a better way.

3. A federal system combines national unity with local autonomy and is therefore very suitable for large countries like India. The different regions of such countries differ widely in language, culture, religion, etc., and have diverse political and economic needs. These regions are not prepared to lose their individuality, though they may be desirous of remaining as one State. In other words, they may have two different tendencies—centripetal and centrifugal. The balance between these two tendencies is struck by adopting the federal system. The marriage between national solidarity and local autonomy can be easily brought about by adopting a federal form of government.

4. The federal system works on the principle of division of labour. Regional problems are solved easily by the people of the units. It is difficult for the Centre to look after such problems efficiently. The Centre deals only with problems of national importance. This division of functions contributes to the efficiency of administration.

5. In a federation, regional affairs are put under the control of the units. This stimulates interest in public affairs. By placing responsibility squarely on the inhabitants of the units, it gives them useful training in citizenship. It thus helps the working of democracy.

6. Some supporters of federalism remark that the principles of the system can be usefully applied to the world at large. A world State, they say, can be organised on the principles of a federal form of government. The common authority of such a State will deal with common problems of the various States of the world while giving them full autonomy in their internal sphere. The World State will be able to maintain internation peace and harmony.

Demerits. A federal form of government is not free from defects :—

1. It is remarked by some writers that a federal State is not able to follow a strong foreign policy. The reason is that in the federal system, the units or the individual states have the authority to legislate on certain matters, and they can easily embarrass the central or national government by not passing a law required to enforce a treaty concluded by the national government. The central government of America often finds it difficult to enforce treaty obligations.

2. In the conduct of internal affairs also, a federation is weak as compared to a unitary State. Division of powers in a federation results in the weakness of the central government. On the other hand, in a unitary State all powers are concentrated in the hands of the Central grovernment. It can therefore act promptly and vigorously. Moreover, the division of power often results in diversity of legislation. For example, in the United States, there are different laws regarding marriage, divorce, crime, etc. This has resulted in a number of complications.

3. A federation is notorious for its legalism. There are frequent conflicts of jurisdiction between the Centre and the units. Moreover, the legislature (whether of the Centre or of the State) cannot pass certain necessary laws, thinking that they might be declared invalid by the judiciary.

4. The Constitution of a federation is generally very rigid. The result is that the administrative machinery of the country cannot adapt itself to changing times. In the United States, 13 out of 50 States can reject any proposal for constitutional amendment.

5. A federal government is more expensive than the unitary system. There is a double system of government in a federation. Every component State of a federation has a separate legislative machinery, administrative services, and judicial courts.

On a careful study of the merits and demerits of the federal system, it is clear that its merits outnumber its disadvantages. The defects of this system can be easily removed by making a careful distribution of powers between the Centre and the units and by making the Constitution neither too rigid nor too flexible. We can safely say that it is the only form of government which is in keeping with d[illegible]cratic principles and is especially suitable to countries havin[illegible]t area and population. In the development of the modern State[illegible]e principles of federalism have played a very important part indeed.

POINTS AT A GLANCE

1. A federal form of government is that system in which powers are distributed between the Centre and the units by the Constitution. The units or "states" enjoy autonomy in their internal sphere. This system is just the opposite of the unitary system in which all powers are concentrated at the Centre.

2. Essential features of a federation are :

(a) Distribution of powers between the Centre and the units.

(b) Written and rigid Constitution which is supreme.

(c) Supremacy of the judiciary.

(d) Dual citizenship.

(e) Status of equality enjoyed by the units in the second chamber of the federal legislature.

3. Merits of this system are :

(a) It makes small States strong.

(b) Economic development of small states takes place in a better way.

(c) This system suits large countries.

(d) Distribution of work between the Centre and the units leads to ***administrative efficiency.***

(e) This system gives useful training in citizenship by placing responsibility squarely on local inhabitants.

(f) Its principles can usefully be applied to the world at large.

4. Demerits.

(a) It is weak in the conduct of foreign affairs.

(b) It is weak in the internal sphere also.

(c) It is notorious for its legalism.

(d) The rigid Constitution of a federation does not allow the governmental machinery to adjust itself to changing circumstances.

(e) This system is more expensive than the unitary government.

5. The merits of this system outweigh its disadvantages. It is the only form of government which is in keeping with democratic principles.

30. What are the essential conditions that favour the formation of a federal union or polity and make it a success. Are they present in India ? *(Important)*

A federation is generally formed when a number of sovereign States comes together to establish a common central government. This is how the U.S. federation came into existence. This is the process of centralisation. Somestimes the method of establishing a federation is quite different. A unitary State is split up into a number of autonomous units and then combined into a federal polity or union. This is how the Canadian federation came into being. This is the process of decentralisation. In India both these processes were at work. So far as the native states (*i.e.* the states ruled by Rajas, Maharajas, Nawabs, etc.) were concerned, the process was of centralisation. The process of decentralisation was adopted in the case of British India. The provinces of British India were given autonomous powers under the Act of 1935.

A federation is the result of a combination of two types of feelings—the feeling or sentiment of having a common Centre or government, and the eagerness of the states to maintain some identity

and independence. To establish such a balanced State, the presence of certain conditions is necessary. The conditions that favour the establishment of a federation and make it a success are as follows :—

1. **Desire for Union** A federal State union comes into existence whenever a number of small States or political units have the desire to unite and establish a common government. This desire is normally born when a nubmer of small independent States realise that if they do not come together to form a common central government, they may be annexed by more powerful States, or economically they may remain weak. The desire for union is the most important condition of a federation.

2. **Affinity of Language, Religion, Culture, etc.** The desire to form a federation is strengthened if the States have the same language, customs, culture, etc. None of these factors is indispensable, but if some of these factors are present the formation of a federation is facilitated.

3. **Desire for Regional Independence**. The States should have the desire to have a union and not unity. If the States have no love for local or regional independence, the result will be a unitary State and not a federation.

4. **Geographical Contiguity**. The geographical contiguity of States which are to establish a federation is certainly a favourable condition. If the different areas are geographically widely separated from one another, effective administration from a common Centre becomes difficult, and the States cannot obtain real advantages of a common government. So the desire to form a union easily emerge.

5. **Atmosphere of Equality**. As far as possible, the various States comprising the federation should be equal in size and population. The smaller units are always afraid of domination by the more powerful States. The bigger States will always try to dominate the joint deliberations. This will result in jealousy, discord and consequent disruption. The classic example of this is the German federation before the World War I. There was a lot of inequality among the component states of the German federation. Prussia was the largest unit of this federation and was able to dominate the whole union. One writer has rightly put : "The German federation was essentially a compromise between a lion (Prussia), a half dozen foxes and a score of mice". Inequality existing among the different federating units can be partially removed by giving equal representation to all the units in the second chamber of the central legislature. This method has been adopted in the U.S.A. Every state of the American federation has given two seats, irrespective of its population and size, in the Senate, the second chamber of the American legislature (Congress).

6. **Political Education of the People.** A federation is a very complicated structure and only politically advanced and conscious people can work it successfully. Since there is a double allegiance in the federation, the citizens should be intelligent enough to understand the meaning of double citizenship and adjust their

regional and national loyalties. They should be always ready to abide by the decisions of the federal judiciary in disputes between regional interests and those of the national government (the Centre).

DO THESE CONDITIONS EXIST IN INDIA

It was the Act of 1935 which for the first time proposed that India should become a federation consisting of provinces and native states. For that purpose the provinces of British India were given autonomy in 1937. The federal scheme laid down by the Act of 1935 fell through because it suffered from many serious defects. As a matter of fact, the Indian federation proposal under the Act of 1935 was designed to be an alliance of autocracy and democracy. The provinces had at least semi-democratic institutions. They were to be yoked with the native states which were under despotic rule. The federal scheme was, therefore, rejected by the Indian leaders.

India has been a federation since 26th January, 1950 when the new Constitution was enforced. The Indian federation consists of 15 units or 'states'. We have to see whether or not the conditions necessary for the successful working of a federal polity exist in India.

1. Almost all the different states of the Indian Union do have a desire for such a union. They know that if they remain isolated from one another, they will not be able to preserve their freedom in these days of international rivalry and aggression.

2. Geographical contiguity, which is an essential condition for the establishment of a federation, exists in India. The different states of India are situated near one another.

3. India is a vast country having different languages, cultures, traditions, etc. The different states of India wish to continue as one union but at the same time they wish to preserve their individuality. They are eager to maintain regional autonomy. The condition, that the states should desire union and not unity, is clearly present in India.

4. Another condition for the formation of a federation is that the people of different states should have a common language, religion, culture, traditions, etc. In other words, the inhabitants of the component states should form a nation. In India there is no similarity of language, religion, etc. But this similarity is not a necessary and indispensable condition for the establishment of a federal union. It does not exist in Switzerland and in Canada. In spite of great diversities in India, there is a sentiment of common nationality throughout the country.

5. The component states of India are not equal in size and population. The process of the consolidation of small Indian states into larger units has removed inequalities to a great extent. It is true that the component states of the Indian Union have not been given equal representation in the Rajya Sabha (second chamber of Indian Parliament), but there is no fear that any single state would dominate the Indian Union.

6. The masses of India do not possess a high level of political education, but other factors are quite strong. It is hoped that the presence of other conditions will lead to the success of the federal experiment. Moreover, the deficiency of political education is sure to be made up in course of time. The federal experiment will itself train Indians in the art of self-government.

POINTS AT A GLANCE

The following conditions favour the formation and success of a federal union :—

1. A desire for union. This desire is generally born when the different States have common political and economic interests.

2. Affinity of language, culture, religion, etc.,

3. A desire for regional independence.

4. Geographical contiguity.

5. Atmosphere of equality.

6. Political education of the people.

India satisfies most of these conditions.

31. Explain the principles and methods of the distribution of powers between the Centre and the units in a federal form of government.

Or

Explain the principles on which powers are distributed in federations and account for the general tendency towards the increase of powers of the federal government (central government).

Or

"In all federations, there is a manifest tendency to entrust the central or national governments with a wider and wider sphere of authority." Discuss this statement.

(*V. Important*)

A federal form of government is a government in which governmental powers or subjects are divided by the Constitution between the central government on the one hand, and the regional governments on the other. Distribution of powers between the Centre and the units is the essence of a federation or federal form of government. Both the Centre and the units derive their powers from the Constitution. The Centre cannot curtail the powers of the units or interfere in their affairs.

Method of Distributing Powers. There are two main ways in which distribution of powers is effected. *First*, the Constitution which brings the federation into existence may specifically enumerate the powers of the central government, leaving the unspecified powers (residuary powers) to the units. This was done by the Fathers of the American Constitution. This is the pattern in Switzerland and Australia also. *Secondly*, the powers of the units or federating states are specifically mentioned by the Constitution and the remaining powers, whatever they may be, are left to the central

government. In Canada, the second method has been followed. If the aim is to make the units strong in relation to the central government, the first method is followed : the powers of the Centre are specifically determined and the units become the holders of residuary powers. If the object is to make the Centre strong in relation to the units or federating states, the second method is adopted : specific powers are allotted to the units, while the central government has residuary powers.

In India, the Constitution contains three lists—union list, state list and concurrent list. Each list contains a group of specified subjects. Subjects mentioned in the union list are looked after by the Centre, and the subjects mentioned in the state list belong exclusively to the states. The subjects included in the concurrent list can be looked after by both the Centre and the units. All undefined powers (residuary powers) have been allotted to the Centre.

GENERAL PRINCIPLE OF DISTRIBUTION OF POWERS

Whatever be the scheme of the division of powers, the general principle is that subjects of national importance, or subjects which need uniform treatment, are usually allotted to the central government. Thus, defence, foreign affairs, war and peace, imports and exports, banking and currency, post and telegraph, broadcasting, railways, etc., are put under the control of the central government. It does not make much difference whether these subjects are specifically mentioned or they remain undefined. Matters, with respect to which circumstances of the different areas of the union may vary, are put under the control of the state or regional governments. Thus education, agriculture, public health, industry, administration of justice, police, jails, etc., are left to the care of the state government.

We can say that the main principle according to which powers are distributed between the Centre and the units is : "*there should be one government for national affairs and a number of regional governments for regional affairs.*"

TENDENCY TOWARDS CENTRALISATION

In federation that have been formed recently, the federal government (central government) has been given wide powers to administer. For example, the federal Constitution of India gives large powers to the Centre. The Indian federation is said to be a federation having many elements of a unitary State. The Centre has been given a long list of exclusive powers. There are about 97 items included in this list. Then there is a fairly long list of concurrent powers. Subjects mentioned in the concurrent list are looked after both by the Centre and the units. But even here laws passed by the Centre prevail upon those passed by the units. Residuary powers, have been vested in the Centre. Moreover, in times of emergency the Union President can convert the federal State into a unitary one by a proclamation to that effect.

Even in old federations, like the U.S.A., there is a clear tendency to vest the central government with greater powers and

widen its jurisdiction. The powers of the Centre there have been increased through formal amendments of the Constitution. Usage and conventions have also helped in the expansion of the federal power. But the real expansion of the powers of the central government has taken place neither by way of formal constitutional amendments nor by way of usage. It is the judicial interpretation of the Constitution which is mainly responsible for this expansion. The Supreme Court has increased the powers of the Centre by adopting the principle of "implied powers". It has interpreted the Constitution in a very liberal way. It has conferred on the Centre certain powers which were not clearly mentioned in the Constitution, but which were implied in other specific powers given to the Centre. It is by interpretation only that the Congress (the federal legislature) has the power to issue paper money, to charter and regulate national banks, to control railways, aeroplanes, the radio, etc. Had the Supreme Court not put a broad and liberal interpretation upon the original Constitution, such powers must have gone to the states.

WHY THIS TENDENCY?

The question arises: Why is the Centre being given increased powers at the expense of the units?

1. A federation is usually formed when a number of sovereign States come together or create a common central government with the purpose of satisfying certain common needs. In the beginning, they give the central government a few necessary powers. But as time passes, the units develop fresh points of contact. Better understanding prevails among them. Their jealousies give place to feeling of friendliness and sacrifice. They come to have a wider outlook and begin to appreciate the necessity of a common powerful Centre.

2. The economic conditions of modern life make it necessary for the federating states to adopt a common economic policy. If they remain economically isolated, they cannot develop their resources fully. Nor can they successfully compete with other Powers in the economic sphere. A common economic policy implies that the central government should have larger powers to regulate industry and commerce.

3. These are the days of international rivalry and friction. A weak central government cannot deal with any emergency effectively. It is very essential for the defence and stability of a federation that the central government should be given vast powers. Then only will it be able to mobilise the entire strength of the nation in times of national emergency or war.

POINTS AT A GLANCE

1. Distribution of powers between the Centre and units is the essence of all federations.

2. There are two methods by which such distribution is made:

(a) The Constitution may specifically grant certain powers to the

Centre, leaving residuary powers to the units. This is what the American Constitution does.

(b) *The Constitution may allot specific powers to the units, giving residuary powers to the Centre. This method has been adopted in Canada.*

(c) *In India, Constitution contains three lists of powers—union, state and concurrent lists. Residuary powers belong to the Centre.*

3. *In recent years there is a manifest tendency to entrust the national government with a wider sphere of authority. The reasons for such a tendency are:*

(a) *Growth of national consciousness with the passage of time.*

(b) *The need for a common economic policy in the modern age of large-scale production and competition.*

(c) *The requirements of a strong defence in these days of international rivalry and aggression.*

32. How will you distinguish between a federation, a unitary State and a confederation? Also, explain the difference between a federation and alliance.

There are a number of ways in which separate political areas or communities may come together to achieve certain common purposes. They may either form a unitary State, or a federation. They may be associated with one another through an alliance also.

UNITARY STATE AND FEDERATION

A unitary State is one in which the central government controls the whole government machinery. The centre may, for administrative convenience, delegate some powers to regions or provinces, but the regional governments are mere administrative agents of the central government. They do not enjoy any original and autonomous powers. The Constitution confers all powers on the Centre which can increase, decrease or withdraw the powers of the provinces. On the other hand, powers are distributed between the Centre and the units in a federation. It is the Constitution which distributes government powers between the central government and the government of the federating units. The Centre and the units derive their powers from the same source—the Constitution. The central government cannot interfere in the affairs of the units. Nor can the units meddle with central subjects. Both the parties—the Centre and the units—are autonomous in their specified spheres. A federal union is a marriage of convenience—a businesslike arrangement made by different political communities or areas. A unitary State, on the other hand, is a kind of marriage that is made in heaven. The different political communities become one flesh.

Another difference between a federation and a unitary State is that the Constitution of a federation is generally a rigid one. Such a Constitution cannot be amended by the central legislature according to the ordinary procedure of law-making. Whenever any change is to be brought about in the Constitution, a special method

is adopted. On the other hand, the Constitution of a unitary State is generally flexible. It can be amended by the central legislature according to the ordinary procedure.

Finally, in a federation the judiciary plays a special role. The Supreme Court acts as the guardian of the Constitution. It sees whether or not the Constitution is being faithfully acted upon by the Centre and the units. It allows neither the Centre nor the units to go against the provisions of the Constitution. The decisions of the Supreme Court in constitutional disputes are final. In a unitary state or government, however, the judiciary cannot challenge the authority of the Centre. The central government can make or unmake any law it likes. Even the highest court of the country cannot challenge the validity of that law.

Great Britain and France are unitary States.

The chief merit of a unitary State is that it possesses a strong government. There is uniformity of laws, policy and administration throughout the country. All governmental powers are concentrated in the central authority. The component units do not enjoy any autonomous powers. They cannot, therefore, stand in the way of central government which can pursue a strong policy in all matters, internal as well as external. On the other hand, governmental powers are distributed between the central government and the units in a federation. This division of powers makes the federation weak both in the internal and in the external spheres. In a federal system some units may be progressive, while others may pursue harmful policies in spheres like education, public health, agriculture, etc.

But a unitary system can suit only small States or States the population of which is not politically advanced and is therefore not fit for regional autonomy. This system cannot suit a vast country where regional diversities are important and pronounced. In a large country, there are many regional problems which can be dealt with effectively only by the people on the spot. An all-powerful central government cannot devote full attention to regional problems. It is only under the federal system that a State can have uniformity in affairs where it is essential and diversity where it is desirable.

FEDERAL UNION AND CONFEDERATION

A federation is not the only form of union which can be formed by a number of independent States or political communities. A confederation is also a union of States, but it differs from a federation. How ?

A confederation is a union or association of two or more States formed for the purpose of achieving certain specific objects, usually defence. Such a union comes into existence by means of an agreement under which a common authority is set up to look after certain common matters. The constituent members of a confederation do not give up their sovereignty. Their association does not give rise to a new State. The confederating States may withdraw whenever they so desire. Moreover, the common authority of a confederation deals only with the governments of the confederating

States and not directly with the individual citizens. It makes only recommendations to the government of the various states for carrying out the treaty that they have signed. A confederation is little more than a "firm league of friendship". It is an intermediate stage between complete separation and a federal union. The United States and Switzerland went through this stage. Historically, a confederation is prior to a federation, but the latter is the more complete form of union.

The distinction between a federation and a confederation may be summed up as follows :—

1. In a confederation, the States do not give up their sovereignty. On the other hand, in a federation the federating states give up their sovereignty and a new State comes into being, and sovereignty belongs to the new State.

2. The common authority in a federation deals only with the government of confederating States and not with their citizens. It cannot pass any restrictive order upon them. In a federation, the central government can directly deal with the citizens.

3. In a federation, the central government does not possess any independent power of law-making. It can make only proposals of laws which may be enacted by the governments of confederating states The central government in a federation, however, has independent power of making laws regarding those subjects which are allotted to it by the Constitution. All federating states are bound to obey such laws.

4. A federation is one international person. The units of a federation cannot become members of any international organisation like the U. N. O. If a war breaks out between the units of a federation, it will be a civil war and not an international war. On the other hand, each one of the confederating states is an international person. Each confederating State can become a member of any international organisation and is entitled to the rights and is subject to the duties as formulated by international law. If a war breaks out between confederating States, it will be an international war.

5. A confederation is, by its very nature, a temporary union. It comes into existence by means of a pact or treaty between different States. The confederating states can at any time withdraw from such a union. On the other hand, a federation is the product of a Constitution. The central government of a federation will not allow any federating state to break away from the union. A federation is therefore more stable than a confederation.

On a close examination of all the points of distinction mentioned above, we shall find that all these differences emerge from one fundamental difference between a federation and a confederation —a federation is a new State and the units of a federation lose their sovereignty which, after the establishment of the federation, belong to the federation as a whole, but with the creation of a confederation a new State does not come into existence ; the confederating states continue to possess their sovereignty.

FEDERATION AND ALLIANCE

An alliance is the simplest form of a union or association. It is formed by States for the advancement of certain common political ends, such as defence against attack, maintenance of neutrality, etc. In an alliance, each State retains its sovereignty and has the full liberty to break away from it. Moreover, a common organ or body does not come into existence as the result of an alliance. An alliance is therefore the weakest form of union of States. On the other hand, the units of a federation lose their sovereignty and a new common authority (central government) comes into existence, and the union is more or less permanent.

POINTS AT A GLANCE

1. **Federation and Unitary State.**

(a) *In a unitary State all governmental powers are concentrated in the central authority. Distribution of powers between the central government and the units is the essence of federalism.*

(b) *For a federation a rigid Constitution is almost a necessity. The Constitution of a unitary State may not be rigid.*

(c) *The Supreme Court has a special position in a federation. It is the guardian of the Constitution. Its decisions in constitutional disputes are final. In a unitary State, the courts of the country cannot challenge the authority of the central government.*

2. **Confederation.** *A confederation is also a union of States but it is quite different from a federation :*

(a) *The confederating States do not give up their sovereignty.*

(b) *The common authority cannot deal with the citizens. It can deal only with the governments of confederating States.*

(c) *The central organ or body does not have any independent power of law-making.*

(d) *Each confederating State is an international person.*

(e) *A confederation is a temporary union.*

3. **Alliance.** *An alliance is the simplest form of union. Each State remains independent and sovereign as before. No common government or organ comes into existence. It is the weakest form of union of States.*

DEMOCRACY AND DICTATORSHIP

33. What is dictatorship ? What do you regard as the advantages or disadvantages of dictatorship as a form of government ? *(V. Imporant)*

Dictatorship is a form of government in which the whole power of the State is exercised by a sigle man—a dictator. All authority flows from him. He is the source of law. All others in the State are subject to his supreme will. No opposition to him is tolerated. He employs techniques of intimidation and coercion. He uses police, prisons and army as central organs of administration.

Dictatorship is not a new term in the language of Political Science. There are many examples in history of persons who assumed absolute powers and dictated the people what they had to do and what not to do. In the past, however, dictators were generally military leaders. They exercised power in a despotic fashion after gaining complete control of the armed forces. The modern dictator seizes power by unconstitutional means with the help of a party of which he is the boss. Hitler, for example, established his dictatorship in Germany with the support of the Nazi party. Mussolini assumed the position of a dictator in Italy by using the Fascist party. Lenin and, then, Stalin were the leaders of the Communist party with the help of which they rose to prominence and dictated the course to be followed by the Soviet people.

RISE OF MODERN DICTATORSHIP

What were the reasons which facilitated the growth of the modern dictatorship? The World War I had resulted in tremendous destruction and devastation in the European countries. There had been a lot of economic dislocation which led to widespread misery and disease. People thought that the war which had been fought to "save democracy" would usher in an era of plenty and prosperity. They were, however, sadly disillusioned. The post-war democratic governments were unable to solve any problem. Different political parties with rival ideologies fought and quarrelled with one another. They formed governments, but could not stay in power for long. People saw the spectacle of one short-lived government giving place to another. In such an atmosphere, parliamentary democracy was at a discount. People became sick of it and felt an acute sense of disillusionment aud frustration.

In these intolerable conditions, leaders supported by powerful parties arrived on the scene. They advocated that the existing structure of parliamentary democracy should be scrapped altogether. Abnormal conditions required abnormal remedies. The need of the hour was a strong rule which was not possible when so many political parties were jockeying for power. They promised to improve living conditions if they were given a chance, unimpeded by any opposition party. Their propaganda fell on fertile ground and caught the imagination of the people. By fair means or foul, through persuasion or force, they created a tremendous backing for themselves. As soon as a suitable opportunity arose, they captured power whether it meant murder or mass killings.

FEATURES OF DICTATORSHIP

Since dictatorship came as a reaction against democracy, its essential features can be better understood by knowing how it differs from the latter.

1. Modern dictatorships are totalitarian regimes, that is, every aspect of a citizen's life is subordinated to State authority. He enjoys no rights. The State is regarded as an end in itself and individuals are expected to make every sacrifice when called upon

to do so by the State. The dictator controls not only the government but the economy, the home, the school, the press, the radio, the cinema, the church and the very mind of the citizens. He suppresses the spirit in man. Democracy, on the other hand, is based on the recognition of the worth of human personality. It considers that the State exists for the welfare of the individual and emphasis is laid upon his all-round development. It guarantees fundamental rights of the individual. It is a regime of liberty.

2. Dictatorship, whether it is Fascist or Communist, is based upon the system of one party. 'One State, one party, one leader' is its slogan. Only one party is allowed to exist and other political parties are totally suppressed. A sort of myth or halo is created round the head of the dictator in whose hands all powers are concentrated. Democracy requires the existence of several, at least two, political parties. The existence of a legal Opposition is a prerequisite of democracy. The ruling party must at all times be ready to withdraw from power in favour of the Opposition, if the Opposition becomes able to assume government by gaining a majority.

3. In modern dictatorships, the executive branch of the government enjoys enormous powers. The legislative and judicial branches are subjected to its domination. The courts dare not, in any case having political relevance, give a decision contrary to the wishes of the executive or of the party leaders. Judges must be mice under the throne. The same is the case with the legislature. Modern dictators sometimes allow the legislature to exist, but it is a hollow shell with the kernel removed. It is a one-party legislature and is nothing but a rubber-stamp. By summoning it at long intervals, by controlling its agenda, the dictator turns it into a receptive-board for his own propaganda and that of his party. Under democracy, the judiciary enjoys independence. It is not subordinate to the executive. The legislature is composed of the members of different political parties and it enjoys real power to make law and to criticise the policies of the executive government.

4. Dictatorship is imperialist in its outlook. A dictator, intoxicated with the wine of power, constantly tries to expand the territory of his State. He preaches militarism. To militarize civilian life and to dress people's bodies in uniforms is the common feature of all dictatorships. Democracy loves peace. It encourages co-operation between nations.

5. In dictatorships, open competition in the spread of information and ideas is not tolerated. The dictator and his party control all the agencies that mould opinion. The press is completely under government control. Radio is controlled. Literature is under government censorship. Party dogmas are preached in educational institutions. All this leads to indoctrination of the masses who are not left with any opportunity to know what is right and what is wrong. The minds of the people are dressed with uniformity. Under democracy, people express their views freely through press, platform and such other channels. The press is free and there is open competition in moulding public opinion.

STRENGTH OF D CTATORSHIP

Dictatorship is generally defended on the ground that it can act very quickly and is therefore very suitable in time of emergency. A dictator is a strong man. He can get things done promptly. In the words of Dr Gooch, a dictator appears on the scene "when the time is out of joint, when the legitimate ruler seems unequal to his task, when the affairs of the community are tangled into a knot, when the traditional foundations of the State are challenged or overthrown, when the people are hungry, or disillusioned, or panic-stricken." The recent history of Germany, Italy, Soviet Russia, etc clearly shows that a dictator can achieve a great success in the internal sphere and can make his country strong. Hitler made Germany one of the biggest powers in the world in ten years. The achievements of Soviet Russia are also well known.

After the Great War I, democracies failed miserably in European countries to solve their post-war problems. The different political parties quarrelled with one another for power. They ignored the interests of the people. The result was that the people were fed up with democracy. They wanted a strong man at the helm of affairs. In these conditions Hitler in Germany, Mussolini in Italy and Lenin in Russia seized power and established confidence in the people by pursuing strong policies. They brought about a big change in the life of the country in no time.

DEFECTS

Dictatorship may deal with emergencies and critical situations effectively, but this form of government cannot suit normal times. No one is really good enough to be entrusted with absolute or irresponsible power. Power corrupts a man and absolute power corrupts him absolutely. It is a lesson of history that dictatorship generally assumes the form of a reign of terror. Mussolini in Italy and Hitler in Germany ruthlessly suppressed the civil liberties and other rights of the people. Force and fear were the foundations of their rule.

Moreover, dictatorship by its very nature is not a stable form of government. What is created by force cannot last long. After some years, it brings about its end by excess or misdeeds, as in Germany and Italy. Besides, there is no guarantee that a good dictator will have a good successor. A dictator does not encourage the rise of leaders lest they should later prove serious rivals to him. When he dies or is assassinated, there are no capable persons to take his place. The structure may, therefore, crumble down at any moment. On the other hand, democracy is based on popular support and interplay of political parties which throw up leaders of great worth and prominence. If one party and its leaders are rejected at the polls, there are always other parties and leaders to replace them, and assume the reins of government.

Another serious defect of dictatorship is that it is an enemy of international peace. Dictators almost always start on a mad career of military conquest and territorial expansion, which results in war. Dictatorship or totalitarianism means the crushing of

individual liberty and the suppression of human personality, violence at home and unashamed aggression abroad. On the other hand, democracy loves peace because it is based on peoples' consent. Ordinary people know full well that if a war breaks out, they will suffer most. So, when power is in the hands of the people, there is much less likelihood of a war-like policy than there is under a dictatorial regime.

Thus considered from various angles, dictatorship cannot hold its own against democracy.

POINTS AT A GLANCE.

1. Dictatorship is a form of government in which the entire power of the State is concentrated in the hands of one man.

2. The main features of the modern dictatorship are : (a) It is a totalitarian regime ; (b) it is a one-party rule ; (c) all powers are concentrated in the executive branch of government ; (d) it is imperialistic in the outlook ; (e) it controls all agencies that mould public opinion.

3. Dictatorship is praised on the ground that it is a very efficient form of government.

4. There are certain fundamental defects in this system :

(a) It generally degenerates into a reign of terror.

(b) It is an uncertain form of government.

(c) It is an enemy of world peace.

SUGGESTIVE QUESTIONS

1. Discuss the strength and weakness of democracy as a form of government.

2. What do you mean by democracy ? Whatever may be the weaknesses of democracy, and they undoubtedly exist, it seems destined to become universal. Discuss the statement.

3. What are the main features of a totalitarian State ?
(Please refer to answer to Q. 33).

4. Distinguish between federal and unitary governments.

5. What are the distinguishing marks of the presidential system of government ? In what respects does this system differ from the Cabinet system ?

6. Discuss the aims and ideals of totalitarian States. How far do these ideals differ from those of democratic States ? (Refer to Q. 33).

7. Write an essay on democracy showing its merits and defects.

8. Critically examine the respective merits and defects of a bureaucratic and of a popular government.

[Hints : Bureaucracy is derived from French 'bureau', meaning administrative department and it refers to a system of government in which policies are determined and administration carried on by officials who are specially trained in the art of government. It is a rule by officialdom. Under the British, the Government of India was to a larger extent a bureaucratic government. The I.C.S. officers were controlling the whole governmental machinery. They laid down policies and also carried on day-to-day administration. Under popular government, policies are determined by ministers who are responsible to the people through the legislature. Only day-to-day administration is carried on by civil servants or permanent officials.

Even when there are ministers, civil servants may be able to influence policies a good deal. A minister is generally a lay man. He does not understand the technical intricacies of departmental work. He has to depend on the advice of permanent officials in shaping his policies. The civil servants very cleverly present facts to the minister and thus influence the policies to be decided by him.

The defenders of bureaucracy regard it as the embodiment of efficiency, unselfishness and service. Moreover, this type of government suits very much backward and illiterate communities. But its critics believe that the bureaucratic system is slow, mechanical and imperious towards the citizens.

The advantages of a popular government are : (*a*) Ministers regard themselves as the servants of the people. They cannot afford to ignore the wishes of the people on whose support they depend. Bureaucrats regard themselves as the masters of the people. Bureaucracy cannot, therefore, expect loyalty from the people. Popular government gets the affection of the people, which is the ultimate basis of the State. (*b*) The outlook of ministers is whenever it is needed to act sympathetically and promptly. A minister may not be so efficient as a bureaucrat, but an efficient goverenment is not necessarily a good government.]

CHAPTER IX

LIBERTY AND EQUALITY

Outline

Definition of liberty
Various kinds of liberty
Relation between law and liberty
Meaning of equality
Relation between liberty and equality.

34 What is liberty ? What are its different aspects or kinds ? Are sovereignty and liberty contradictory terms ?

(*V. Important*)

The word 'liberty' occupies a very important place in political discussions. While poets have poured out many golden words on the subject of liberty, philosophers have written many a learned discourse on it.

But what is liberty ? The term is not so simple as it seems to be. It conveys different meanings to different people in different circumstances. Liberty, in the sense in which a poor man understands it, means freedom from want and starvation. The subjects of a despotic ruler will regard themselves as free only when they have a voice in the affairs of the State. To the people of a dependent country, liberty means freedom from the control of foreigners.

Generally, we use the term liberty in two senses : national liberty and individual liberty. The former implies freedom from all external control. A nation is said to have national liberty when it is free from all foreign control. Liberty in this sense inspired India's freedom struggle. In this question, we shall confine ourselves to individual liberty.

MEANING OF LIBERTY

Liberty, in common speech, is understood as the unchartered and unrestricted freedom of doing anything that an individual likes. Such a definition of liberty is entirely wrong. We cannot be given absolute freedom in society. No body can be given the freedom to go about murdering others or depriving others of their possessions. If all individuals are allowed to do whatever they like, the result will be not liberty, but licence, anarchy, chaos. Total withdrawal of all restrictions will let loose all the evil forces in society.

Restrictions or restraints are necessary in the interest of order and welfare of the people. Liberty must imply restrictions. Restrictions are imposed on individuals by the State in the form of laws. Law is the condition of liberty. But restrictions must not be unjust and undesirable. They must be conducive to social benefit and welfare. There are certain restrictions which are injurious to the liberty of the individual. If a man is prevented

from committing a murder or asked to observe the rule of the road, he will not feel that he has been deprived of his freedom. But if he is not allowed to exercise his right to vote or is denied freedom of speech and association, he will have a sense of frustration and disappointment. Such irritating restrictions hamper the intellectual and moral growth of an individual and are definitely antagonistic to his liberty. Excessive and irritating restrictions deaden intellect and paralyse initiative. Thus, negatively, liberty means absence of oppressive and irritating restraints on the conduct of the individual. Laski has put the negative aspect of liberty in the following words :—

"I mean by liberty the absence of restraint upon the existence of those social conditions which in modern civilization are the necessary guarantees of individual happiness."

Liberty, in the second place, has a positive aspect. Mere absence of oppressive and irritating restrictions does not confer liberty on the individual. Positively, liberty implies presence of certain opportunities which are necessary for the development of human personality. Free education, adequate wages, etc., are examples of positive conditions or opportunities. This aspect of liberty has been put nicely by Laski. He says, "*Liberty is the eager maintenance of that atmosphere in which men have the opportunity to be their best selves.*"

Taken together, these two definitions emphasize the idea that liberty or freedom exists not in the absence of restraint but in the presence of opportunity as well. It may be mentioned that those who have power and money, emphasize the negative aspect of liberty *i.e.*, absence of arbitrary restriction. But for the poor people the positive aspect of liberty is more important.

DIFFERENT KINDS OR ASPECTS OF LIBERTY

Liberty is thus a very comprehensive concept. It has three **aspects : civil, political and economic.**

1 **Civil Liberty.** Civil liberty means enjoyment of rights of life and property, and some other rights of civilised existence, without which an individual cannot find avenue to self-development. The purpose of this type of liberty is protection against undue interference in the daily life of the individual so that he may be able to act in different directions with a view to making life both possible and fruitful. Security of life and private property, equality before law, freedom of thought and expression, of association, etc., are the ingre**dients of civil liberty.**

2 **Political Liberty.** Political liberty means the power of the individual to be active in the affairs of the State. This implies that an individual should have the right to choose his rulers and to express his [illegible] regarding public [illegible]. He should [illegible] the right to vote, the right to stand for election, the right to [illegible] and the right to criticise the [illegible] been to be democratic. Political liberty exists in democratic [illegible]

There is a very [illegible] relationship between [illegible] and political liberty. Political liberty [illegible] be useless [illegible] cannot enjoy civil liberty [illegible]

thought and speech, the right to freedom of association, etc. If the people cannot express their opinions freely, if they cannot form political parties, they cannot take an effective part in the affairs of the State. Political liberty becomes solid only on the basis of civil liberty. On the other hand, political liberty safeguards civil liberty. Political liberty means that the people choose their own rulers and government is carried on according to their will. Naturally, civil liberty will be safe under this arrangement. If the people have no right to vote or to criticise their rulers, their civil liberty will soon disappear. In dictatorships, people generally have no civil liberty because they have no political liberty. In totalitarian States, civil liberty is practically non-existent.

3. **Economic Liberty.** Economic liberty means freedom from want and starvation. All citizens should have sufficiency to live upon. Economic liberty exhibits the positive aspect of liberty. It consists of the right to work ; the right to reasonable hours of work ; the right to adequate wages ; the right to State help in old age, in the event of unemployment, sickness, disability and other cases of undeserved want. Economic liberty is most essential, for without it there can be no true political and civil liberty. A starving individual cannot develop his personality. Freedom of speech is meaningless for a person who has an empty stomach. Also, a person, who is always worried about his bread, can have no effective political liberty. He cannot exercise his right to vote according to his own wishes. His vote can be purchased by a rich candidate. He cannot stand as a candidate in the election because he cannot afford to spend money on his election.

Only that person can be truly free who possesses economic liberty in addition to civil and political liberty. But we must remember that mere economic liberty is not enough. Adequate food, clothing and other material necessities can be assured to an individual in a well-run prison also. All the three kinds of liberty—civil, political and economic—must exist side by side.

RELATION BETWEEN LIBERTY AND SOVEREIGNTY

There are some people who say that sovereignty of the State and liberty of the individual are opposed to each other. Sovereignty of the State implies supremacy of the State over all individuals and associations of individuals within its jurisdiction. Its authority is absolute and it can use force to compel obedience. In that case, they say, there can be no liberty for the individual.

This view is, however, wrong. Sovereignty and liberty are not really opposed to each other. Sovereignty helps liberty. By liberty we do not mean unlimited power to do what we like. As we have said above, it does not mean absence of all restrictions on the activities of the individual. There can be no 'absolute' liberty. Absolute is another name for licence which ultimately leads to confusion and tyranny of the strong over the weak.

It is the sovereign power of the State which imposes restrictions on human behaviour, thus enabling every individual to enjoy an equal share of liberty. Again, liberty is not merely the

absence of restrictions. It has a positive aspect also. People have liberty when they are provided with positive conditions of good life. Liberty will exist only when everyone has opportunities necessary for self-development, such as an adequate wage, free education, security of employment, etc. And it is the State alone which can maintain such conditions.

In short, liberty of the individual and sovereignty of the State are not antagonistic to each other.

POINTS AT A GLANCE

1. Liberty does not mean absence of all restrictions. Restraints are necessary for order and harmony. If there are no restraints, the result will be not liberty, but licence, anarchy, chaos.

2. Negatively, liberty means absence of unjust and arbitrary restraints, on the free will and activities of the individual. Positively, liberty means existence of those conditions which are necessary for the development of human personality.

3. Liberty is a comprehensive term which has different aspects—civil liberty, political liberty and economic liberty.

4. Sovereignty and liberty are not opposed to each other. It is the sovereign State which creates necessary conditions for the development of human personality. If there were no State, there would be no liberty for the weak.

33. Distinguish between civil and political liberty, and indicate the content of civil liberty. Explain the various safeguards and guarantees of liberty in the modern State.

Civil liberty. Civil liberty means freedom of the individual to enjoy life and property and other facilities which are essential for civilised existence. The object of the type of liberty is to protect the individual against undue interference on the part of government and other individuals in the daily life so that he may be able to make his life both possible and fruitful. The rights which constitute civil liberty are the right to life and property, the right to freedom of religion or conscience, the right to freedom of thought and speech, the right to freedom of association, the right to equality before law and so on.

In a number of democratic States, civil liberty is guaranteed by a written Constitution. For example, the written Constitution of the U.S.A. guarantees certain rights to the people. They are secure not only against the actions of the executive but also of the legislature. These rights are :—

(1) Freedom of religion.

(2) Freedom of speech and of the press.

(3) Freedom of assembly.

(4) Right to life.

(5) Right to property.

The Constitution of India also guarantees such rights. The rights included in the Indian Constitution are :

(*a*) Right to equality.

(*b*) Right to freedom—freedom of profession, movement, etc.

(*c*) Right to freedom of religion.

(*d*) Cultural and educational rights.

(*e*) Right to property.

(*f*) Right to constitutional remedies.

In England there is no written Constitution. This does not mean that there is no civil liberty in England. Civil liberty is secured to the British people by the courts, upon the principle that every person has the right to do anything or say anything. The only condition is that he or she must not violate the ordinary law of the country. Civil liberty is upheld by all States having democratic governments. But it may be curtailed or even abrogated in times of war or national crisis.

Political Liberty. It means freedom of an individual to participate in the affairs of the State. It consists of those rights which enable an individual to control the government which is the machinery through which the State works. The rights which constitute political liberty are the right to vote, the right to stand for election and the right to hold public office. It is another name of popular or self-government.

There is a very intimate relation between civil liberty and political liberty. If people do not have political liberty, they generally do not have civil liberty also. If they do not enjoy political liberty, civil rights guaranteed by the Constitution or the law of the State soon disappear.

SAFEGUARDS OF LIBERTY

Liberty is a necessary condition for the development of human personality. If we do not have freedom, we cannot be happy. For the existence of liberty certain conditions must be established. The following are the important conditions or safeguards of liberty.

1. **Rule of Law.** The legal system of a country plays an important part in defending the liberty of citizens. The law of a country should be no respector of persons. It should treat all in the same way, irrespective of their birth, status or wealth. The State must not confer special privileges on any one. All persons, including highly-placed officials, should be tried in the ordinary courts and under the ordinary law of the country.

2. **Independence of Judges.** Liberty or rights of citizens can be safe only when judges are men of character, and when they perform their duties in an independent and impartial way. They should be able to administer justice without fear or favour. The executive and the legislature should not be allowed to interfere in their work.

3. **A Bill of Rights.** The written Constitution of the State should include the various rights of citizens. The Constitution of a country is a sacred document and the government will think twice before it sets aside the liberties and rights of the people.

The Constitution of the United States of America and India, for instance, include such rights and these rights are inviolable. When a citizen feels that any of his rights has been encroached upon, he can move the Supreme Court or any other competent court.

4. **Democracy.** The liberty of individual is better safeguarded under democracy because it gives ample opportunity to the people to stand up for their rights and liberty.

5. **Vigilance** The strongest safeguard of liberty is the spirit of the people. "Eternal vigilance is the price of liberty." "The secret of liberty lies in courage." People should carefully watch the policies and actions of the government, and they should not be willing to submit to any illegal interference with their rights and liberties. They must oppose all such interference by organised protest and resistance backed by free press. They should not be indifferent when their liberties and rights are in danger.

POINTS AT A GLANCE

1. Civil liberty means freedom with which an individual can act in private spheres of life. This form of liberty consists of such rights as freedom of life and property, freedom of religion, freedom of association, etc.

2. Political liberty means freedom of an individual to take part in the affairs of the State. It consists of such rights as the right to vote, the right to stand for election, the right to hold public office, etc.

3. There is a very intimate relation between the two. People who do not have political liberty generally do not enjoy civil liberty also.

4. The safeguards of liberty are rule of law, independence of judges, bill of rights, democratic government, and the spirit of citizens.

36. "Law is the condition of liberty."

Or

"The liberty of the individual is not always in inverse ratio to the amount of State legislation." Discuss the statement.

(*V. Important*)

Or

What is precisely the relation between law and liberty ?

Two extreme views have been expressed regarding the relation between law and liberty.

One is that there is no conflict between law and liberty, that every law of the State enlarges individual freedom. This view is held by the Idealists who regard the State as an embodiment of all reason and justice. Individuals, they say, are imperfect and they often make mistakes. It is only the State which by laying down laws guides and leads citizens to the path of prosperity and happiness.

We cannot accept this view. The Idealists have over-emphasized the importance of the State. No doubt the State is a useful human institution, but it cannot be said categorically that all laws made by it enlarge human freedom. If laws are made by selfish persons

to suit their interests, obedience to them is not freedom but the worst form of bondage. Despotic governments and dictators often issue obnoxious and soul-killing ordinances. Can a man develop his personality and realise his freedom by obeying such laws and ordinances? Certainly not.

According to the other extreme view, the law of the State and the liberty of the individual are opposed to each other. Every law passed by the State is an obstacle in the way of true liberty. This view is held by Individualists and Anarchists. The Individualists regard the State as a 'necessary evil'. It is necessary because of the selfish nature of man. It exists because crime exists. It is an evil because every restriction placed by the State on the individual means curtailment of his liberty. The liberty of the individual is always in inverse ratio to the amount of State legislation. The more the laws, the less is the liberty of the individual. According to the Anarchists, the State is an "unnecessary evil". It is a positive instrument of oppression. They believe that all laws are bad and should be done away with if we want to make people truly free and prosperous.

The view held by the Individualists and the Anarchists is also wrong. Liberty does not mean absence of all restraints on the conduct of the individual. Laws no doubt put checks on individuals but they are necessary to regulate social behaviour. There is no such thing as 'absolute liberty'. In the absence of State laws, the "law of the jungle" will prevail. There will be chaos and disorder in society. The strong will dominate the weak. Laws must be there so that every individual should enjoy an equal share of liberty.

THE CORRECT VIEW

What is then the exact relation between law and liberty? Does law increase or curtail liberty? The answer is that it all depends upon the content of law. Every law must be examined on its merits. If laws are made by a democratic government and are in accordance with the wishes of the people, they are likely to be conducive to their liberty. Laws promote liberty in many ways.

(*a*) Certain laws of the State exist to protect the liberty and rights of the individuals. For example, laws of the State protect our property from being forcibly taken away by others.

(*b*) The positive aspect of liberty is to create those conditions which are necessary for the development of human personality. Such conditions are created by the State through laws. For example, the State makes laws to enforce free and compulsory education or to regulate wages and hours of work for industrial workers.

(*c*) Certain laws, known as constitutional laws, safeguard the liberty of the individual against undue encroachment by the executive government. They define and restrict the powers of the government, and guarantee the political and civil rights of the people. For example the writ of *habeas corpus* protects the individual against illegal arrest.

To sum up, law is the necessary condition of liberty. But it should not be taken for granted that every law is conducive to liberty. There are certain arbitrary and unjust laws also which leave the individual with a sense of frustration and disappointment. The laws of the State should, therefore, have the support of the people behind them and be willingly obeyed by them. Only such laws of the State will enlarge individual liberty.

POINTS AT A GLANCE

1. There are two views regarding the relation between law and liberty.

(a) The Idealists believe that every law passed by the State enlarges individual liberty.

(b) The Individualists and Anarchists regard law as antagonistic to liberty.

2. Both these views are extreme. A position midway between the two expresses the right relationship between law and liberty. Every law must be examined on its merits. If laws are based upon the consent of the people, they become a friend and condition of liberty. Such laws,

(i) Protect individual rights from being encroached upon by others ;

(ii) Create those conditions which are necessary for the development of human personality ; and

(iii) Safeguard the rights of the people from undue interference by the government or executive.

37 What is equality ? Are liberty and equality necessarily incompatible ?

Or

"Political liberty in the absence of economic equality is held to be a mere myth." Discuss the statement

Equality is a vital democratic ideal like liberty. If liberty is one pillar of democracy, equality is its second pillar. But what is equality ? Just as liberty is sometimes understood in the sense of unrestrained freedom, equality is interpreted as identity of treatment and of reward. Some claimants of equality assert that all men are born equal and should be treated equally The American Declaration of Independence (1776) asserts : "We hold these truths to be self-evident that all men are created equal.........." But nature has not created all men equal. All men are not born equal and equality does not imply identical treatment. Men differ in their health, intelligence, capacities and aptitudes: Some persons may be interested in science, while others may have an aptitude for literature. Some may like to be engineers, while others may desire to be manual workers. Then, how can all of them be treated in the same manner ? They need different conditions for the development of their potentialities.

Again, equality does not mean that every person is entitled to equality of income. It is, for example, unthinkable that an engineer

and a manual worker should be paid the same remuneration. The quality of their work is not the same. If an engineer is given the same reward as an ordinary worker, it will be injustice. In short, **absolute equality is an impossible ideal.**

CORRECT MEANING OF EQUALITY

The principle of equality implies two things: (a) No citizen or a section of citizens must be allowed to enjoy special privileges. Rights and duties must extend to all. There should be no distinction between man and man on grounds of race, colour, religion and the like; (b) the State should provide adequate opportunities to all so that every individual may be able to develop his creative faculties. This means that the State must so arrange the social order as to enable each citizen to develop his personality to the fullest extent possible. This is the positive connotation of the ideal of equality.

Equality, like liberty, has different aspects—(a) civil equality; (b) political equality; (c) social equality and (d) economic equality.

Civil equality implies equal civil rights for every citizen. The rights to equality before law, the right to speech and thought, the right to association and assembly, the right to education, the right to freedom of movement, etc., must be conferred on all. Political equality means that the same political rights, such as the right to vote, the right to stand for election, the right to hold public office, etc., are enjoyed by all citizens of the State. Discrimination in the political sphere on grounds of sex, race, etc.; is against the principle of equality. Social equality implies that in society no person should be regarded as high or low on the basis of his caste, religion, colour or race and no person should be given special privileges.

Economic equality does not mean that all citizens should possess equal wealth. It, however, does mean that every person must have economic minimum. The primary needs (food, clothing, shelter, etc.) of everbody are the same. The principle of equality implies that such needs of all citizens must be satisfied before any inequality of wealth is allowed. Laski rightly says, "I have no right to cake if my neighbour, because of that right, is compelled to go without bread." Every one must have a fair start in life. Excessive inequalities of wealth must be reduced and economic minimum guaranteed to all. Beyond the economic minimum, inequality is justified, provided it is capable of explanation in terms of social good. This means that inequalities of income must be based on the service which every individual renders to the community as a whole.

RELATION BETWEEN LIBERTY AND EQUALITY

Before taking up this relationship, we should be clear about one thing. Liberty has essentially a political and civil connotation whereas equality generally means economic equality.

Some political thinkers are of the opinion that the ideal of liberty is antagonistic to that of equality. For example, Lord Acton and Tocqueville say that liberty is incompatible with equality. If individuals were given full freedom to acquire wealth, a few talented and clever persons would be able to possess abundance of

wealth while others would lag behind. This would result in inequality of wealth. Again, if equality were to be maintained, the more efficient would have to be shackled (*i.e.* their liberty would have to be curtailed) so that they might not outrun the less efficient. In other words, liberty and equality cannot co-exist.

But this view is wrong. Liberty does not mean absence of all restraints. Nor does equality imply mathematical equality or a flat level of economic equality. Some restrictions have to be imposed on the rich so that the majority of people may have economic security. No modern State allows a capitalist employer to treat his employee in any way he likes. Every progressive government puts a heavy burden of taxation on the rich for securing a rough sort of economic equality. Experience has shown that political liberty—the right to vote and the right to seek election to the legislature cannot be real and serve its purpose unless there is rough economic equality in the State. The successful functioning of democracy rests upon honest and intelligent participation of the people. If the majority of people are miserably poor and a few are enormously rich, we cannot establish a genuine democracy in the country. Public opinion is moulded by the printed word, the press, the radio, the film and other such agencies which are, to a great extent, under the influence of capitalists, financiers and other moneyed classes. People have the right to vote no doubt but in practice this right is meaningless. Political life is dominated by those people who control the economic life of the country.

In the opinion of modern political thinkers, therefore, political liberty is not possible without economic equality. As Cole has said, "Political liberty without economic equality is a myth". According to Laski, "Political equality can never be real unless it is accompanied by virtual economic equality." Excessive economic inequalities must be removed to make political liberty really effective. Civil liberty is also meaningless without economic equality. Theoretically, every person may have access to courts of justice, but a poor man is generally denied justice because he cannot afford to pay legal fees.

Similarly, economic equality is useless without civil and political liberty. If the people are denied civil and political rights equality may mean slavery for them. Liberty and equality must go together. Liberty will help in the attainment of economic equality and equality will make civil and political liberty effective and genuine.

POINTS AT A GLANCE

1. Equality does not mean identity. Individual differences must be taken into account.

2. Equality means :

(i) absence of special privileges.

(ii) adequate opportunities should be provided to all.

3. ***Forms of equality :***

(i) *Civil—enjoyment of civil rights by all.*

(ii) *Social—no distinctions based on caste, colour or creed.*

(iii) *Political—adult suffrage and right to hold office.*

(iv) *Economic—minimum living standards must be guaranteed.*

4. *The richer classes through their control of the press, radio and films, influence public opinion. Political liberty is, therefore, negatived. It is possible in an atmosphere of economic equality only. Similarly, there can be no real civil liberty without a rough economic equality. On the other hand, liberty (civil & political) helps in creating economic equality. So liberty and equality are not antagonistic to each other.*

SUGGESTIVE QUESTIONS

1. What is the relationship between liberty and authority ?

[Hint. Refer to the relationship between liberty and law].

2. The recognition of political authority is the indispensable condition of liberty. Discuss.

3. Explain the term 'Liberty' and justify the remark that sovereignty and liberty, far from being contradictory, are correlative terms.

4. Define 'Equality'. To what extent does the realisation of civil and political liberty depend upon economic equality ?

CHAPTER X

RIGHTS AND DUTIES

Outline

Definition and nature of rights
Different kinds of rights
Relation between rights and duties
Different kinds of duties
Safeguards of rights

In the previous chapter, we have discussed the nature and kinds of liberty. We have said that liberty implies the maintenance of certain social conditions in which an individual is free to pursue his happiness, and can promote his physical, mental and moral development. This means that liberty is nothing but the product of rights. In this chapter, we shall discuss the meaning and scope of the rights of the individual in the modern democratic State. The concept of rights is the very centre of modern political philosophy.

38. What are rights? Describe the rights of a citizen in the modern democratic State. **(*Important*)**

Definition and nature of rights : *"Rights are those conditions of social life without which no man can be his best self"* (*Laski*). We know that life is not merely living, but living well. Good life requires for its development certain conditions. Such conditions claimed by an individual in society are called rights. Without them, he cannot lead a full life. He cannot develop his moral, intellectual and other capacities to the full. Not only this, even the highest good of the community, of which an individual is a part, cannot be promoted if certain rights are not accorded to the individual. Provision of rights to an individual is in the interest of society as a whole. It is the duty of the State to safeguard the rights of the individual and thus justify its existence. It must make rights available, not to a few individuals, but to all. They should not be the monopoly of a select few. Rights conferred on some and denied to others will be privileges, not rights.

It will be now clear from above that the following are the chief elements of a right :—

(*a*) A right is a condition of good life. It is essential for the development of human personality.

(*b*) It is social in character. It can exist only in society. It presupposes the existence of other members of society, who recognise that the condition of good life claimed by an individual is in the interest of all.

(*c*) It is enjoyed equally by all.

Keeping these three elements of rights in view, we can define them as *"the essential conditions of good life, claimed by the individual, recognised by society, and enjoyed in common by all members of society equally."*

KINDS OF RIGHTS

When certain rights are recognised by society alone, they are called moral rights. For example, parents have a moral claim on their children to be helped by them in their old age. The sanction behind moral rights is social approbation or disapprobation. Recognition by the State and its agents is lacking in the case of moral rights. If a moral right is violated, there is no remedy against the offender in a court of law. As soon as moral rights are recognised by the State, they become legal rights. A legal right is enforceable in a court of law against the government or other citizens. It is not essential that what is legally a right may also be morally justified. There was a time when in some of the American States people used to own slaves. The law of the country permitted them to do so. In other words, it was their legal right to own slaves and treat them as their property. It was something immoral and inhuman. A civil war had to be waged in America in order to abolish slavery. In a democratic State, however, legal and moral rights tend to harmonise. The State generally recognises all those rights that are morally justified. In this way it gives moral rights a legal status. Legal rights are sub-divided into civil rights, political rights and economic rights.

The following rights are generally recognised in civilised States :—

CIVIL RIGHTS

These rights relate to the protection of life and property of an individual and to the achievement of his highest self-development. These rights constitute civil liberty. The more important civil rights of a citizen are :—

Right to Life. This right implies protection of an individual from assault and violence. Every State has to protect the life and person of a citizen. All other rights of an individual can be maintained when this right is fully safeguarded. How can an individual enjoy his other rights when even his life is not safe ? Every State must make arrangements to provide security to the life and person of an individual. This right confers upon an individual the right of using force in self-defence.

Right to Property. Except Communist States, all States recognise the right to private property. This is because an individual cannot develop his personality without a certain minimum of private property. Property is a reward of ability and labour. It serves as an incentive to better effort. This right, however, is not absolute. It is limited by considerations of social justice and public welfare. The State limits this right by taxing property-holders, by passing laws regarding tenant's rights, inheritance, and by putting restrictions on monopolies, etc. Subject to such limitations, an individual has the right to use, enjoy and sell his property in any way he likes.

Right to Family Life. Every citizen has the right to family life. This right pertains to such matters as relation between husband and wife, between parents and childern, and so on. It is the duty of the State to recognise and maintain the sanctity of family life.

Right to Freedom of Thought and Expression. Right to freedom of thought implies that an individual is given the freedom to make use of any source (books, newspapers, cinema, radio, etc.) of information to form his opinions. Freedom of expression implies that he is free to express his views and opinions regarding public matters. He can express his views freely through the press and platform. He is also free to publish books and booklets to popularise his views. This right also includes the right to express one's opinion through pictures, cartoons and posters. Free discussion of public affairs is very important in the practical working of democracy. Freedom of expression is the very life-breath of democracy. Democracy is ultimately based upon public opinion. It is through the medium of the spoken and written word that people can air their grievances and criticise the actions of government. No individual can perform his civic duties and contribute to social good if he does not possess the right of expressing what he wants to express. A good government will always welcome free discussion and criticism. Only a dictatorial regime suppresses criticism of its policies and actions. This right is however subject to the laws against sedition and defamation. Freedom of expression does not permit any one to indulge in scandal-mongering or to preach violence. It should be noted here that the right to freedom of expression includes the right to freedom of the press.

Right to Freedom of Assembly and Association. Freedom of expression also implies the right to assemble freely to express opinions and the right to form associations to propagate views and to influence governmental policies. In the modern State we find a large number of voluntary associations. Individuals form unions and associations for economic, social, cultural, political, religious, or recreational purposes. What an individual cannot do himself, he tries to achieve by associating with others. In democratic countries such associations are given considerable freedom to carry on their activities. But the State can suppress an association if it indulges in subversive activities, or tries to capture political power by force.

Right to Freedom of Contract. Citizens should be free to make contracts with one another, and if one party violates the terms of the contract, the other should be compensated according to the law. The State does not, however, recognise a contract that is entered into for illegal or immoral purposes.

Right to Education. This is another important right which must be secured to every citizen in the State. If a person is not educated, he or she cannot act as a good citizen. Laski writes: "Citizenship has been defined as the contribution of one's instructed judgement to the public good. It follows therefore that the citizen has the right to such education as will fit him for the tasks of citizenship." An uneducated person cannot rise to the full height of his presonality. He cannot play a creative role in public affairs. So it is essential that a minimum level of education should be guaranteed to every citizen.

Equality Before Law. All citizens should be equal before the law of the country, irrespective of caste, position and importance of the persons concerned.

Right to Secrecy of Correspondence. Citizens should be free to carry on any correspondence and communication through the post, telegraph and telephone, provided it does not disturb public peace and public interests.

Freedom of Movement. Every citizen has the right to move freely anywhere in the country. His movements should not be checked by other individuals or government. If arrested, he must be produced before the magistrate as soon as possible.

Right to Freedom of Religion. Citizens should have perfect freedom of conscience and religion. They should be allowed to profess any religion they like. They should not be made to suffer from any disabilities for practising a particular religion. In democratic States this right is guaranteed to all citizens. But the government does not allow any religious propaganda which is likely to disturb the peace of the country. Nor will it allow any citizen to indulge in illegal and immoral practices under the garb of religion.

POLITICAL RIGHTS

Political rights are those rights which enable an individual to take part in governmental affairs. Through the exercise of these rights an individual selects the government of the country and influences its policies. The following are the political rights of citizens in the modern democratic State.

Right to Vote. Democracy is based upon the principle that political power ultimately belongs to the people. It is impossible for every citizen to participate directly in the administration of the modern State with its vast territory and large population. Citizens, therefore, exercise political authority only indirectly. They elect their representatives who govern the country on their behalf.

Right to Represent. In a democratic State, every citizen has the right to stand as a candidate for election. The representatives of the people are not chosen from a group of privileged persons.

Right to Hold Public Office. In the modern democratic State, every citizen has the right to hold a public office if he or she has the required qualifications.

Right to Criticise Government. Every citizen has the right to criticise the government and express his views about any action or policy of the government. This is implied in the civil right to freedom of speech and expression.

ECONOMIC RIGHTS

The aim of economic rights is to enable an individual to enjoy economic security. These rights have acquired great prominence in the present century.

The Right to Work. It is the duty of the State to make its citizens mentally and materially fit for the struggle of life. It should see that they have work enough to give them a decent living. Those who are out of employment have a right to demand work from the State. If a citizen is unemployed, it is the duty of the State to help him during the period of enforced idleness.

Right to Reasonable Hours of Work and to Adequate Wages. Citizens have the right to demand reasonable hours of work so that their health may not suffer and they should have enough leisure to participate in social, cultural and other activities. They have also the right to demand reasonable wages for their labour so that they can live decently. Moreover, an individual have the right to assistance by the State in old age and in case of disability.

Civil and political rights are closely inter-related. Political rights have no significance without civil rights. For example, the rights to criticise the government cannot be exercised effectively if the people do not enjoy the right of free speech and expression.

In the same manner, civil rights depend for their existence on political rights. Only by exercising political rights can people safeguard their civil rights. In dictatorships, people do not enjoy political rights. So they cannot defend their civil rights. Political rights imply that the government of the State is run and controlled by the elected representatives of the people. Under such a system, laws will naturally protect the civil rights of the people. In a dictatorship, the people do not have the right to vote freely. They cannot change the government according to their wishes. In such circumstances, their civil rights or civic liberties are at the mercy of the dictator.

Again, in the absence of economic rights most of the civil and political rights become illusory. If a person does not enjoy economic security, he cannot exercise his civil and political rights effectively. For example, the right to represent is meaningless to a person who has no money to contest elections. He can not exercise his right to vote properly because his vote be easily purchased by a rich candidate. A poor man may have the right to equality before law, but he is generally denied justice because he cannot afford to pay legal fees. Moreover, economic rights alone are not enough. They must be supplemented by civil and political rights. Only then can an individual lead a full life.

Notes. (*a*) We have dealt with the economic rights separately, but some writers have included them in the category of civil rights.

(*b*) These rights vary in different States. All the civilised and democratic States do not confer upon their citizens exactly the same rights.

POINTS AT A GLANCE

1. Rights are those conditions of life without which no man can develop his personality.

2. The chief elements of a right are :—

(a) It is a condition of good life.

(b) It is recognised to be so by society.

(c) It is enjoyed by all.

3. Rights are of two kinds—moral and legal. Moral rights are supported by public opinion but are not protected by the State or government. Legal rights are enforceable by a court of law. Legal

rights are sub-divided into civil rights, political rights and economic rights.

4. Civil rights relate to the protection and enjoyment of life and property of an individual and to the achievement of his self development. Some of the civil rights are—right to life, right to property, right to family life, freedom of thought and expression, right to public meeting and association, right to education, etc.

5. Political rights are those rights which enable citizens to take part in governmental affairs. Right to vote, right to stand for election, right to hold government office, and right to criticise government are called political rights.

6. Economic rights constitute economic liberty. They enable an individual to be free from want, hunger, unemployment and exploitation. Some of the economic rights are : right to work, right to have reasonable hours of work and decent wages. Some of the writers have placed economic rights within the category of civil rights.

30 "Rights imply duties". Discuss this statement and enumerate some of the duties or obligations of a citizen.

(*V. Important*)

The statement that 'rights imply duties' or rights and duties are correlative is often quoted in Political Science, and it contains every truth in it. A duty is a claim of others on an individual. A healthy social life is not possible without the co-existence of rights and duties. If in society everybody enjoys all rights, but does not perform any duty, the outcome will be chaos and anarchy. If we have all duties and no rights, we shall become slaves. It is very essential that rights and duties should exist side by side in society.

The relation between rights and duties has the following different aspects :—

(1) Rights are social in character. They are enjoyed in common. A's right is B's duty and B's right is A's duty. Rights granted to an individual impose a duty on him that he should respect the same rights of other members of society. I enjoy the right to freedom of speech. This means that other individuals should not interfere in the expression of my views. In other words, it is their duty to respect this right of mine. But it is my duty also to respect the right to freedom of speech of other members of society. I must not attack or molest a person for having expressed a particular view. I have the right to life, i.e., I am given protection from assault and violence. It is the duty of other people to respect my right to life. But they also enjoy this right to life and it imposes on me a duty, an obligation to allow them to enjoy this right. I must not go about murdering others. Dr. Beni Prashad says :

"Rights and duties are interdependent. They are two aspects of the same thing. If one looks at them from one's standpoint, they are rights. If one looks at them from the standpoint of others, they are duties. Both are social, and both are, in substance, conditions of right living to be secured to all members of society. [illegible]

to consider whether rights are prior to duties or vice versa. They are the counterpart of each other. [illegible] everyone insisted on his rights [illegible] duties [illegible], there would soon be no rights left for anyone."

2. [illegible] If the individual does not do so, the whole [illegible] to him will [illegible]. For example, my right to freedom of speech [illegible] the duty [illegible]. I should use the right to [illegible] my views [illegible] public [illegible]. I should bring to the notice of the government [illegible] grievances of the people. I shall not misuse the right of [illegible]. I should not preach violence or spread communal hatred or abuse respectable people in public. Functions or duties are thus [illegible] to rights.

3. There is another sense also in which rights and duties are related to each other. The State recognises our rights. But the mere grant or recognition of rights is not enough. It is the duty of the State to maintain our rights. It must see that other individuals and the government respect our rights. Only then will the State be able to justify its existence, and hope that we will perform our duties towards it.

PARTICULAR DUTIES

Duties, like rights, are divided into two categories—legal and moral. Legal duties are those which can be enforced through the courts of law. A citizen is punished if he does not perform his legal duties. On the other hand, moral duties spring from the accepted notions of morality. The sanction behind them is social approval or disapproval, or human conscience. To respect one's parents, or to help the poor and needy is a moral duty.

Among the public duties which a citizen is expected to carry out, the most important place is assigned to 'Allegiance to the State.' Allegiance means loyalty and service. Every citizen must give his first loyalty to the State, subordinating to it all other loyalties, whether linguistic, religious or regional. He must defend the State when its security is threatened, and be prepared to sacrifice even his life. He must not shirk military service in the hour of national crisis. Spies and traitors are always given severe punishment.

Obedience to laws is the next important public duty of a citizen. Society can make no progress if the people have no respect for laws. If a citizen finds that a particular law is bad, he should try to get it repealed by constitutional means. He should not unnecesssarily resist a law.

Another important duty of a citizen is to pay all taxes levied by the State. The State provides him the conditions necessary for his life, progress and happiness. It must have at its disposal enormous funds to organise the whole machinery of government and public administration, and to perform welfare functions. It is for this

reason that citizens are called upon to pay taxes, duties, etc. In a democracy taxes are determined by the representatives of the people, and it is the duty of every citizen to pay the taxes.

To assist government in maintaining peace and order is another duty of a citizen. He should help the authorities in putting down what is immoral, criminal and disruptive.

The right to vote implies the duty to vote. A citizen should cast the vote in favour of a candidate who, in his opinion, is most suitable. He should exercise constant vigilance over the government and its policies and actions. Laski rightly says that the price of democracy is eternal vigilance on the part of the people.

POINTS AT A GLANCE

1. Rights and duties always go together. They are the two sides of the same coin. Rights and duties are related to each other in the following three ways :

(a) Rights granted to an individual impose a duty on him to respect the rights of others. What is A's right is B's duty and vice versa.

(b) Rights of an individual imply his duty to exercise them properly. He must fulfil the purpose for which rights have been granted to him.

(c) It is the duty of the State to maintain our rights. Only then can it justify its existence, and hope that citizens will perform their duties towards it.

2. Allegiance to the State, obedience to laws, payment of taxes, assistance to government in the maintenance of law and order and the proper use of the right to vote are some of the important public duties of a citizen.

40. Estimate the importance of freedom of speech and discussion (or expression).

Freedom of speech and discussion (or expression) means the right to express one's convictions and opinions freely through the press and platform. It also includes the right to express one's ideas through books, pictures, cartoons, etc.

What is the importance of this right ? The following are the most important arguments in its favour :

Freedom of expression, in the *first place*, stimulates mind and enriches the personality of the individual. In the words of Dr. Beni Prashad, freedom of expression ranks among the indispensable conditions of personal development. Denial of this right will lead to intellectual inertia. Milton preferred this freedom to any other freedom. He said : "Give me the right to know, to utter and to argue freely according to conscience, above all liberties." Socrates was condemned to death because he was not prepared to give up his beliefs. 'Daily discussion of the matters about which you hear me conversing is the highest good for man', he told his judges.

Secondly, freedom of expression is fundamental to democracy. Without this right, the ideal of democracy cannot be realised.

Jennings says : "Without freedom of speech the appeal to reason, which is the basis of democ acy, cannot be made." Through this right, the people criticise government and enable it to know popular feelings, and to remain on the right track. The Press Laws Enquiry Committee of India has rightly remarked that democracy can only survive in the atmosphere of constant controversy ; it is essential to it that any government, however, strongly entrenched and however well-intentioned, shall be aware that its actions are under constant scrutiny and that there hangs always over its head the sword of public criticism.'

Thirdly, the government which does not allow people to enjoy the right to freedom of expression runs the risk of being overthrown by force. It can know popular feelings and desires only by allowing the people to express them. If it deprives the people of freedom of speech, it will not know what they want and what they do not. Its policies will, therefore, get more and more divorced from the real needs and aspirations of the people. A stage will come when the people will lose patience and try to overthrow the government by violent means. It is common experience that discontent assumes unhealthy forms if it does not find healthy channels of expression.

It should be remembered, however, that the right to freedom of expression does not mean unrestricted freedom. Freedom of expression or opinion should not be abused by slandering and defaming others. Nor can a person be given the freedom to incite people to commit murders and other crimes. Again, almost all agree that in times of war when the safety of the State is itself at stake, freedom of speech and discussion must be restricted. That is why in every country freedom of speech is subject to restrictions imposed by laws relating to defamation, sedition, obscenity and the security of the State.

41. Discuss the various theories of rights. (*Important*)

Rights are conceived in different ways by various political philosophers. Some important theories of rights are as follows :

Theory of Natural Rights. The theory or doctrine of natural rights is very old. It was first put forward by some Greek writers. It was, however, made much use of by Hobbes, Lockes and Rousseau —chief exponents of the Social Contract theory of the origin of the State. According to theory of natural right, certain rights are gifts of nature. They are inborn and absolute. They do not depend for their existence on the recognition by society or the State. They existed even before the State came into existence. Man enjoyed these rights when he was living in the state of nature. For example, Locke says that in the 'state of nature', man enjoyed the right to life, the right to liberty and right to property. Such rights are 'prior to the State. Man got them from nature and he cannot be deprived of them by State. This is, in brief, the doctrine of natural rights.

The notion of natural rights has played a very important part in the history of human thought. It was under the influence of

this doctrine that Declaration of the Rights of Man was made an integral part of the Constitutions of America and France. Right to life, right to liberty, right to property, etc., are generally regarded as natural rights.

By way of criticism we can say that rights did not exist in the state of nature because there was no authority to protect them. In the state of nature, all individuals could not have equally exercised their rights. The rights must have been the monopoly of a few persons who had superior physical force. Rights are rights only when they are enjoyed equally by all. This is possible only when there is some common authority to safeguard the rights of the people. And that common authority is the State. Rights cannot be absolute and independent of society and the State.

The theory of 'natural rights' can be accepted only in one sense. By 'natural rights' we should mean those fundamental or basic rights which ought to be guaranteed to every citizen, as they are necessary conditions for the development of human personality. The State cannot fulfil its purpose if it does not recognise and enforce the fundamental rights of its citizens. Laski holds that freedom of speech and of association, a living wage, adequate education, proper self-government, suitable employment, etc., are natural rights in the sense that without them an individual cannot develop his personality. Nor can the State fulfil its purpose. The nature of the State is determined by the system of rights it maintains. Most of the constitutions of the modern democratic States contain a declaration of fundamental rights. The extent of these rights is not the same in every democratic State. Right to life, right to property, right to contract, freedom of association, freedom of thought and expression, freedom of religion, etc., are some of the fundament rights of the citizens of a State. The Indian Constitution also contains a list of fundamental rights. If the legislature or the executive in India deprives an individual of his fundamental rights, its action will be declarded *ultra vires* or unconstitutional by the Supreme Court of India which is the guardian of the Constitution.

Legal Theory of Rights. According to this theory, rights are those claims of the individual which are recognised and maintained by the State. In other words, they are the gifts of the State. They depend for their existence on the laws of the State. Any claim which is not recognised by the State is not a right.

The theory is wrong. In reality, rights are those conditions of life which are essential to the development of human personality. They are not the creation of the State. They are prior to State. The State simply protects them. Suppose a State or the persons who are in power in the State do not at a particular time recognise the right to freedom of expression. But that does not mean that freedom of expression as a necessary condition for the development of human personality ceases to be a right. It is, however, true that the State does enforce rights.

Historical Theory of Rights. This theory says that whatever has grown customary is right. Rights are nothing but crystallisation of customs. They flow from history.

This view cannot be accepted. It is not necessary that every custom should become the basis of a right. Slavery, for example, was customary in many countries, but it could not be regarded as a right. There are certain customs which are injurious to the individual and society. If we believe in the historical theory of rights, no reform in society will be possible.

Social Welfare Theory of Rights. According to this view, rights are the conditions of social welfare. Hence, no claim of the individual can be regarded as a right unless it passes the test of social welfare.

The theory contains a good deal of truth. Social welfare is a good test of rights. But this theory suffers from two defects. In the *first place*, the expression 'social welfare' is very vague. It is very difficult to give it a definite meaning. It cannot become a sure basis of rights. *Secondly*, this view ignores the importance of the individual. There is no doubt that an individual is a part of society. If society progresses, he will also progress. But a situation may arise when an individual may be sacrificed for the sake of society. This is, however, a wrong approach.

Personality Theory of Rights. The personality theory of rights holds that rights are the conditions necessary for the development of human personality. Rights are guaranteed to the individual because they are essential to his physical, mental and moral development. He is given rights so that he may realise common or social good of which his good is an intrinsic part. Of all the theories, the personality theory of rights is the most satisfactory one.

POINTS AT A GLANCE

1. According to the doctrine of 'natural rights' certain rights of an individual are inborn and absolute. They existed even before the State came into existence. They are prior to the State.

2. This theory is not correct because there can be no rights without the State. It is the State which protects the rights of individuals. Rights cannot be absolute and independent of society and the State.

3. The theory of 'natural rights' can be accepted only in one sense. By natural rights we should mean those fundamental rights which are necessary for the development of the personality of the individual in society. The individual cannot rise to his full stature without these rights.

4. According to the legal theory, rights are the gifts of the State. The historical theory says that rights flow from history—that is, long-standing customs assume the form of rights. Social welfare theory makes social welfare the basis of rights. Personality theory says that all claims which are essential to the development of human personality are rights. The last theory is the most satisfactory one.

SUGGESTIVE QUESTIONS

1. Criticise the doctrine of natural rights.
2. "It is only in the world of duties that rights have significance." Discuss.
3. "Rights are only the counterpart of duties." Discuss.
4. "Rights and duties are correlative." Discuss.
5. What do you understand by the terms 'rights' and 'duties'? What are their various kinds?

CHAPTER XI

CITIZENSHIP

Outline

Definition of citizen and citizenship

Different methods of acquiring citizenship

How citizenship is lost

Essential features of good citizenship

Hindrances to a good citizenship

42 "Citizenship has been defined as the contribution of one's instructed judgment to the public good." Discuss.

The term "citizen" literally means a person who is the resident of a city or a town. But in Political Science this term is used in a different sense. Any member of a community who owes allegiance to the State where he resides normally and who enjoys civil and political rights fully, is called a citizen of the State. It does not matter whether he is a resident of a city or a village And citizenship is a condition of life which guarantees to the citizen the enjoyment of all rights, civil as well as political. Rights which relate to the protection and enjoyment of life and property and are essential to good living are known as civil rights. Among others, they include the right to life, the right to property, freedom of thought and expression, and freedom of conscience and religion. Rights which enable a citizen to participate in the affairs of the State are known as political rights. These include, among others, the right to vote, the right to stand for election and the right to hold public office.

The significance of the term "citizen" can best be understood if we make a distinction between a citizen and an alien. An alien is a person who resides for the time being within the territory of a State but owes allegiance to some other State. He does not enjoy all the rights that are possessed by the citizens of that State. He may have civil rights, but not political rights. He may be guaranteed security of life and of property but he cannot enjoy the right to vote.

Laski has laid emphasis on the qualitative aspect of cititzenship. According to him, citizenship means the contribution of one's instructed judgment to the public good. By this he means that a citizen is not a mere passive participant in the advantages or rights offered by the State. He is also not an unintelligent performer of certain mechanical duties. A citizen should not act like a machine. A good citizen plays an active part in the achievement of the purpose for which the State has come into existence. The purpose of the State is to realise the maximum good of the maximum number. A citizen should help the State in the realisation of this purpose. The State can fulfil its purpose only when every individual takes an active part in its social and political life. He must know what his rights are and how those rights are to be exercised. He should use his rights in such a way as to maximize social welfare. He must

also know that what his duties are and how they are to be discharged. He must educate himself in public affairs and then contribute his own ideas to the welfare of the State and society. Thus we find that good citizenship involves service to the community.

We may, therefore, finally define a citizen as an intelligent person who owes allegiance to the State, has civil and political rights, and is inspired with a spirit of service to the community of which he or she is a member.

Srinivas Sastri has also given a similar definition of a citizen. He says : "A citizen may be defined as one who is a member of a State and tries to fulfil and realise himself fully within it along with an intelligent appreciation of what should conduce to the highest moral welfare of the community."

POINTS AT A GLANCE

1. A citizen is a person who owes allegiance to a State and who enjoys full civil and political rights.

2. An alien is a foreigner who enjoys some of the civil rights, but not political rights.

3. Laski has laid emphasis on the qualitative aspect of citizenship. He says that citizenship means the contribution of one's instructed judgment to the public good. In other words, a citizen is that person who has a mature judgment and who is inspired with a spirit of service to the community.

43. "Citizenship means the right ordering of several loyalties." Discuss.

Our society consists of many groups. Some of them are large and others small. The whole humanity is the largest group and family is the smallest. Family, village, city, province, State, voluntary associations and humanity are the main groups which we find in society. Individuals are able to achieve their development through these groups.

The question arises : To which of the groups an individual should be more loyal or more dutiful ? Suppose, the welfare of the family demands that he should do business, and the welfare of the State requires him to accept a war job which fetches him a very low salary. Which duty should he neglect ? In other words, what should be the order of his loyalties as a good citizen ?

The answer is that he should try to adjust the interests of both as far as possible. If, however, adjustment is not possible, he should be more loyal to the larger group than to the smaller one. The reason is that subordination of the interests of a smaller group to a larger group is essential for progress. He should aim at the welfare and happiness of a larger number. A man should look after the interests of his family. It is a good thing. But he should not allow his loyalty to the family to stand in the way of his loyalty to his village, city, province or State. Again, patriotism is noble sentiment. We should love our country and be prepared to make any sacrifice to protect its freedom. But our patriotism

should not destroy [illegible] love for other countries. We should love our country, but we should love humanity more. This is the test of a good citizen [illegible] in the right ordering of loyalties. If a citizen [illegible] adjusts his relations with different groups and associations according to their importance, he is a successful and good citizen. If he does not [illegible] adjust his relations with different groups, he has still to learn the lesson of good citizenship.

The trouble is that the majority of people fail to do so. Their love for a smaller group is more than their love for a larger group. They love their family more than they love their city or country. They care more for their country than they care for humanity at large. This sort of tendency is not healthy. This is the cause of unhappiness and disharmony in the world.

POINTS AT A GLANCE

1. Society consists of many groups—family, associations, village, province, State, humanity.

2. We should be more loyal to the larger group. In this way we will be able to achieve the greatest happiness of the greatest number. That will be the right ordering of loyalties.

3. Unfortunately, the majority of people have the opposite tendency. They care more for the smaller group than for the larger one. This tendency is the cause of conflicts in our society.

44. What are the methods of acquiring citizenship? How is citizenship lost?

Citizens may be of two kinds. In a State there may be natural citizens and naturalized citizens. Corresponding to these two kinds of citizens, there are two methods of acquiring citizenship. One is acquiring citizenship by birth and the other is by naturalization. Those persons who acquire citizenship by birth are called natural citizens. Those who acquire citizenship through the legal process of naturalization, are called naturalized citizens.

Acquisition of Citizenship by Birth. Generally there are two principles governing citizenship by birth—one is *Jus Sanguinis* and the other is *Jus Soli*.

According to the principle of *Jus Sanguinis*, a child acquires the citizenship of his parents no matter where he is born. It is the blood relationship which determines citizenship. For example, if a child is born to a French couple in India, he or she will be considered by the French State as its own citizen. But if a child is born to an Indian couple in France, the French law will not recognise him as a French citizen, because Indians in France are aliens and their children will also be treated as foreigners or aliens.

According to the principle of *Jus Soli*, the citizenship of a child is determined by the place of birth, irrespective of the citizenship of his parents. This principle is followed by Argentina. If a child is born to an English couple in Argentina, he will become a citizen of Argentina. But if a child is born to an Argentina couple in England, he will not be granted citizenship of Argentina.

Britain and the United States follow both these principles. They apply the principle of *Jus Sanguinis* to the children of their own citizens. A child born of an English couple in any part of the world will be a citizen of England. But these countries follow the *Jus Soli* principle with regard to the children of aliens. A child born of an Indian couple in Britain will acquire British citizenship.

These different principles of determining citizenship sometimes cause a lot of confusion. For example, if a child is born of a French couple in the U S A , he will be claimed both by the U S A and France. In other words, he will become an American citizen and a French citizen at the same time. He can be asked to serve in the army by both the countries in times of war or emergency.

In such cases the child himself, when he becomes major, decides the citizenship he wants to retain.

Naturalization. An alien (foreigner) is said to be naturalised when he is formally admitted in the political community or the State, and is allowed to enjoy the privileges of citizenship. A man is naturalized on fulfilling certain conditions which vary from State to State. The following are the ways of acquiring citizenship by naturalization :—

1. **Marriage.** A woman becomes the citizen of the State to which her husband belongs. An English woman marrying an Italian would automatically become a citizen of Italy.

2. **Legitimation.** An illegitimate child of a citizen father and an alien mother may be legitimatized and the citizenship of the State to which the father belongs may be conferred upon him by a special law.

3. **Purchase of Land.** In some States (Peru and Mexico) the right of citizenship is acquired as soon as a person has purchased land in the State.

4. **State Service.** In some States, aliens are naturalised on their being appointed to a government post.

5. **Long Residence and Domicile.** Sometimes aliens are naturalized on account of their residence for a particular period in the State. The period prescribed in Britain and the U.S.A. is five years, but is ten years in France.

In addition, some States insist that the applicant should be a person of good moral character, should possess an adequate knowledge of the national language, and should be in a position to support himself.

Citizenship acquired through naturalization is regarded as somewhat inferior to natural citizenship. For example, in the United States, a naturalized citizen is not eligible for the office of the President or the Vice-President.

Loss of Citizenship. Citizenship may be lost in any one of the following ways :—

(a) *Marriage of a citizen with a foreigner.* In some countries a woman citizen by marrying a foreigner forfeits rights of citizenship in her own country, though she secures the rights of citizenship in the country of her husband.

(b) *Entering service in a foreign country.* The law of some States provides that citizens of those States will lose rights of citizenship if they enter the service of a foreign country

(c) *Conviction for serious crimes.* In some countries citizenship may be lost by persons who have been convicted of serious crimes.

(d) *Absence for a long period.* The laws of many States deprive such persons of citizenship as have been absent from their country for a long period.

(e) *Naturalization.* When citizens of one State leave their country of birth and settle in another State so that they have been naturalized there, they lose rights of citizenship of their original State.

(f) *Desertion.* According to the laws of some States, desertion from military service deprives a citizen of citizenship rights.

POINTS AT A GLANCE

1. Modes of acquiring citizenship. Citizenship may be acquired by birth or by naturalization.

2. There are two principles of acquisition of citizenship by birth —one is Jus Sanguinis and the other Jus Soli. According to the first principle, a child acquires the citizenship of his father ; according to the second rule, place of birth determines the citizenship of a child.

3. Acquisition of citizenship by naturalization includes various methods, namely, marriage, legitimation, purchase of land, State Service, long residence, etc.

4. Loss of citizenship. Citizenship may be lost by marriage, by entering service of a foreign country, by long absence, by naturalization, by desertion from the army.

45. (a) What qualities should an ideal citizen possess ?

Or

What are the requisites of good citizenship ?

(b) What are the hindrances to good citizenship ?

(a) An ideal citizen is that person who makes proper use of the opportunities for self-development provided by a system of rights, and who makes a constructive contribution to the good of the society. He knows how to order loyalties. He is always ready to make every sacrifice and to render all possible assistance to those who are in difficulties. He has a developed social conscience. The following are the qualities of ideal or good citizenship.

1. **Physical Soundness.** A citizen should always try to remain healthy and keep himself physically quite fit. A sick and unhealthy citizen is useful neither to himself nor to his community.

2. **Education and Intelligence.** Another requisite is that citizens must be educated and well-informed so that they can understand public questions and problems. If a citizen is illiterate, he cannot discharge his responsibilities properly. Education of the right type improves the character and habits of a citizen. It develops the desired civic virtues and inculcates the requisite discipline in him.

3. **Self-control.** Self-control means self-restraint, *i.e.*, keeping feelings, emotions, passions, etc., under control and not allowing them undue liberty. Self-restraint is the foundation-stone of character. It has immense value of disciplinary nature for the mind and body of a person and preserves his equilibrium. A good citizen cannot afford to act on a mere whim. He must weigh the pros and cons of every question before arriving at any decision. No organised work in any sphere is possible without discipline or self-control.

4. **Public Spirit.** A person in order to be a good citizen must possess a high degree of public spirit. Mere intellectual ability is not enough. As a matter of fact, it becomes a positive source of mischief if it is not accompanied by certain moral qualities. A person who lives for himself cannot be a good citizen. A good citizen is a person who is devoted to the service of his fellows, who possesses a conscience, and who has a burning ambition to promote general welfare.

(*b*) The following are the chief causes that prevent citizens from becoming ideal citizens :—

1. **Ignorance.** Uneducated citizens do not discharge their duties properly. It is a good system of education which makes citizens intelligent and well-informed. Education affords opportunities for self-development. It makes citizens enlightened and fit for the duties of citizenship. Ignorance or lack of education is one of the most serious obstacles in the way of good citizenship. An illiterate person is unable even to understand the significance of his rights and duties.

2. **Indolence.** Indolence means laziness or inactivity. This habit is a great obstacle in the way of good citizenship. A person must not be indifferent to public affairs. He must realise that society can make progress only when all make joint efforts.

3. **Self-Interest.** Most of the so-called public workers become so much engrossed in their private matters that they forget their real duties. They forget the interest of the public and engage themselves in activities that are useful to them personally, to their relatives, to their followers or supporters. A citizen should always care more for the public good than for his own good. His individual good should not stand in the way of the public good.

4. **Party Spirit.** Party system generally breeds party spirit and leads to jealousies and conflicts of interest. Every party tries its best to serve its own interests at the cost of the welfare of the society as a whole.

5. **Poverty.** The last but perhaps the most serious obstacle in the way of good citizenship is poverty which is the nursery of

vice, disease and crime. A hungry man can easily choose the path of crime. Moreover, depressed by poverty he cannot have the time and energy to discharge his responsibilities as a citizen. In other words, he cannot become a good citizen. It is therefore necessary that some economic minimum should be guaranteed to all citizens of the State.

POINTS AT A GLANCE

(*a*) *To become a good citizen the following qualities are necessary :*

(i) *Physical soundness.*

(ii) *Intelligence.*

(iii) *Self-control.*

(iv) *Public spirit.*

(*b*) *The main hindrances or obstructions in the way of good citizenship are as follows :*

(i) *Ignorance.*

(ii) *Indolence.*

(iii) *Self-interest.*

(iv) *Party spirit.*

(v) *Poverty.*

SUGGESTIVE QUESTIONS

1. Define a citizen. How is citizenship acquired and lost? What are the qualifications of a good citizen?

2. Distinguish between a citizen and an alien.

3. What are the two kinds of citizenship? How are they acquired?

CHAPTER XII

LAW

Outline

Meaning and Nature of Law

Sources of Law

Kinds of Law

Relation Between Law and Morality

Nature of International Law

Rule of Law and Administrative Law

As Political Science is a social science, it has to deal with laws without which no social life is possible. Law is the very essence of the State, and we may well define a State with Wilson as 'a people organised for law within a definite territory.' In this chapter, we shall discuss the meaning and nature of law, the sources of law, the kinds of law and so on. A student of Political Science is not required to make a thorough study of law. He is expected to know only the fundamental things concerning law.

46. Discuss the nature and sources of law.

Or

What is meant by law in Political Science? Examine the sources of law.

Laws are the very essence of the State. It is impossible to conceive of a State operating without laws which are the most obvious manifestation of its sovereignty.

But what is law? The literal meaning of the term 'law' is something which remains fixed or uniform. The term is used in various senses, and its use is not confined to any one branch of knowledge. We hear of physical or natural laws, moral laws, political laws and so on. A physical law speaks about the behaviour of things in the physical world. 'Heat expands bodies' is an illustration. The law of gravitation is another example of physical laws. Such laws are permanent and fixed. Political Science is not concerned with them. A moral law deals with internal acts—thoughts, motives, desires, etc. 'One should always speak the truth, is a moral law. Moral laws are enforced by an individual's conscience.

MEANING AND NATURE OF POLITICAL LAW

As students of Political Science, we are mainly concerned with political laws. They are also called laws of the State, or positive laws. According to Austin, the chief exponent of the Analytical School, law (political) means the command of a determinate human superior whom we call sovereign. This definition has been criticised by Sir Henry Maine, the representative of the Historical School, on the ground that it excludes customs which are an important source of law. Customary laws are not the commands of any political authority, but are nevertheless recognised and enforced by the courts of the country.

Austin's definition of law is also objected to on the ground that it places undue emphasis on the element of force. This is clear from the word 'command' that he has used in his definition of law. Individuals obey laws not only because they are 'commands'; they obey them because they consider them socially, too.

Dr. Woodrow Wilson has tried to reconcile the views of the Analytical School with the criticisms offered by the Historical School. He says: "Law is that portion of the established thought and habit which has gained distinct and formal recognition in the shape of uniform rules backed by the authority and power of government."

Another writer defines law as "the sum of social influences regularly recognised and applied by the State in the administration of justice."

The definition given by Professor Holland is regarded as very satisfactory. He says: "A law is a general rule of external action enforced by a sovereign political authority." This definition says nothing about the source of law. A law may originate from a definite authority (the legislature or the will of an autocrat) or may simply be based upon customs, religion, etc., of the people. The important point to be noted is that law is a rule of behaviour for the members of a State, and is backed by the State's machinery of power. 'It is not the issuing of the law that makes the State a State; it is the force of the State that makes law law,' as Hocking puts it. Political laws are enforceable by courts and the whole machinery of justice.

From the definition given above, the nature of law is clear:

(a) Law is general rule, meant for all and not for any particular individual. It is applicable to all without exception in identical circumstances.

(b) It is a rule of external action. It is meant to regulate the external conduct of the people, and has nothing to do with their thoughts, desires, etc.

(c) It may be issued by a determinate authority (*e.g.* legislature), or may be the outcome of well-established customs, traditions, etc.

(d) It is enforceable by the State machinery of justice. What is not enforceable is not law.

SOURCES OF LAW

According to Holland, the following are the sources of law:

1. Customs. Customs have been the earliest source of law. In every society, many customs are found regulating the lives of the people. When the State finds that they are useful, it recognises and enforces them. In this way many usages and customs become laws in course of time, e.g., the common law of England.

2. Religion. Religion lays down certain rules of conduct which, if found useful, are recognised by the State. Hindu law is thus derived from Hindu Shastras. Mohammedan Law is derived

from the Quran. In early society, customs and religion were the most important sources of law.

3. **Adjudication.** Judges generally interpret laws and apply them to particular cases. They have no power of making laws directly. But sometimes a law is not clear. A judge then gives his own interpretation, and in the light of that interpretation decides the case. His decision becomes a precedent, and is generally followed subsequently in similar cases. In this way, a judicial decision of a senior judge becomes a source of law. In India, we know, the decisions of the Supreme Court and of the High Courts are often quoted by lawyers with effect and authority.

4. **Scientific Discussions.** In courts of justice great importance is attached to the opinions of important legal writers and jurists. The value attached to the opinions of men like Blackstone, Story, Kent and others has been great. Such commentators gather past customs, judicial decisions and law. They arrange them in a logical way. Their commentaries remove many ambiguities of the existing laws. Their opinions are always respected by lawyers and judges. Besides, such scientific discussions and commentaries lead to future enactment of laws.

5. **Equity.** Equity is another source of law. The meaning of equity is fairness or justice. Sometimes, certain cases come before courts, for which there is no provision in the existing law, or it may also happen that the existing law becomes too rigid to adapt itself to new conditions. In that case, a judge will use his own commonsense and experience to do justice and to give relief in a particular case. In this way, equity becomes a source of law. In England, there is a Court of Chancery to apply the rules of equity.

6. **Legislation.** This is the chief and the most important source of law at present. Many laws now-a-days are enacted by the State. The province of modern legislatures is very wide and they deal with many varied activities of society. While speaking on legislation, Gilchrist says, "It is the chief source of law, and is tending to supplant the other sources. Custom and equity are both largely replaced by Legislative Acts. The codification of law tends to narrow down the field of judicial decisions as a source of law, and scientific commentaries are used mainly for discussion."

POINTS AT A GLANCE

1. Law is a general rule of external human conduct, enforced by the authority of the State.

2. The various sources of law are :—(a) Customs, (b) Religion, (c) Legal decisions, (d) Scientific discussions, (e) Equity and (f) Legislation.

47. What are the different kinds of law ?

Or

Suggest a classification of law.

There are different ways of classifying law. It may be classi-

fied from the point of view of its sources. Where does law come from? According to this basis, the different kinds of law are as follows:

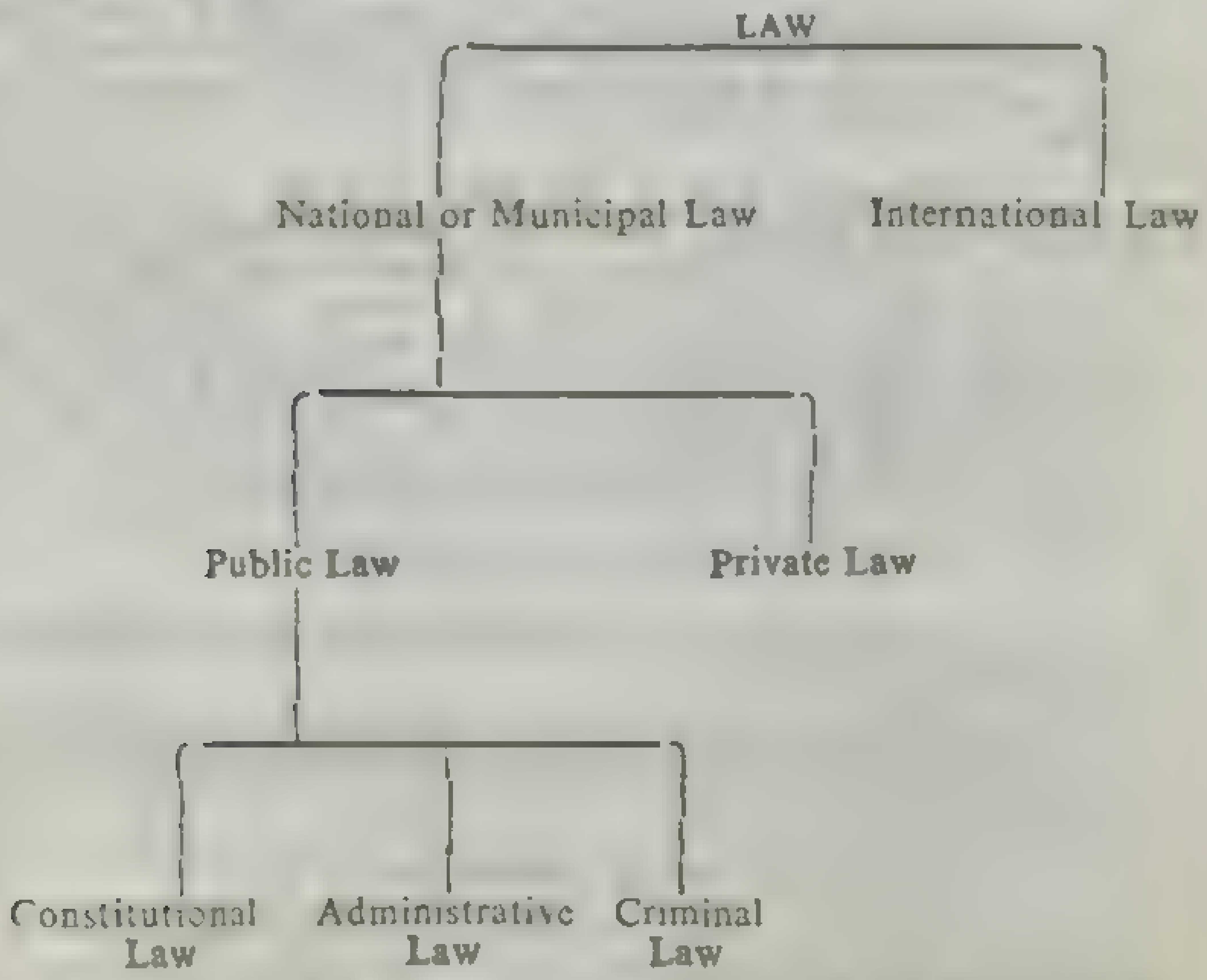
First, there is a statute law (or Act) which is made by the legislature or parliament of the country. For example, a law passed by the Indian Parliament or by the state legislatures is a statute law. This type of law represents the major part of the existing laws of almost every country today.

Then we have ordinances. Ordinarily, laws are made by the legislature but sometimes the executive government is allowed to issue temporary laws to cope with certain special circumstances and emergencies. Such laws are called ordinances.

The *third* category of law is the common law. It rests on customs or usages but is recognised and enforced by courts like the statute law. It is also called a customary law.

The *fourth* kind of law is the judge-made law or case-law. Ordinarily, it is not the function of a judge to make laws. His function is only to interpret a law and apply it to particular cases. But in the process of interpreting existing laws, the judge expands them. His decisions become precedents, and are respected by all fellow judges. Such precedents serve the purpose of law proper.

Law may also be classified on the basis of the type of relations it seeks to regulate. The following table shows the classification of law on this basis.



International law regulates the conduct of the States of the world in their dealings with one another. Its sources are international

customs, treaties, international conferences, the works of authorities on the subject, etc. International law falls into three divisions, *viz.*, the law governing States in their normal peaceful relations, the law governing the States at war and the law governing States in neutrality.

Municipal law is the law of a particular State. In other words, it is that law which operates within a State.

Municipal or national law may further be classified as (*i*) Private law and (*ii*) Public law. A law is said to be private when it regulates the relations between individuals. In private law, the parties concerned are private persons, and the State stands as an impartial arbiter. Laws concerning property, contract, marriage, etc. belong to this category. Public law represents those rules which regulate the relations between individuals and the State. Public law may again be sub-divided into : (*i*) Constitutional law which defines and explains the structure of government and the relation between its various organs. (*ii*) Administrative law prevails in France and some other European countries. According to this law, public officers are tried by a special law (administrative law) and in special courts known as administrative courts. This law and tribunals are not meant for private individuals. Only government officials who commit a crime in their official capacity are tried according to the administrative law. (*iii*) Criminal law. It deals with crime and its punishment.

POINTS AT A GLANCE

According to the agency through which law is made, the different forms of law are statute, ordinance, common law and case-law. According to the type of relations it regulates, law may be divided into municipal law and international law. Municipal law is further classified as private law and public law. Public law is again sub-divided into constitutional law, administrative law and criminal law.

48. Bring out the relation between law and morality.

Or

"In spite of close relationship, the spheres of law and morality are essentially different." Explain. *(V. Important)*

Law and morality are closely related to each other. Both aim at happiness and perfection of the individual and society.

Law is generally at the heels of morality. It often forbids what morality forbids. Many moral acts are also illegal, as for instance, if morality condemns theft, law also punishes it. Ethical ideas and standards always influence the formulation of laws. Ideas of right and wrong widely held by the people always tend to be crystalized into law. It has been rightly said by a writer that the laws of a country reflect the moral standard of its people. A country with a high moral standard will have a legal system based on lofty principles of justice.

A law can be effective only when it is supported by the moral consciousness of those whom it concerns. If a law violates the moral [illegible] of the people, it may not be obeyed by them, and this thing is

not in the interest of the government. Particularly laws of social reform can be effective only when they conform to the moral notions of the people. In the United States, the prohibition law had to be repealed because the people were not prepared to accept restrictions imposed by it.

On the other hand, law can influence moral standards of the people. It is true that we cannot make people moral with the force of laws. For example, no law can compel an individual not to be selfish or greedy. But laws can create those conditions which are favourable to the growth of moral life of the people. For example, by introducing prohibition, by educating people and by eliminating economic inequalities, conditions can be created in which the people may be induced to give up evil or immoral ways.

In short, the connection between law and morality is very intimate. It is the duty of the State to maintain a system of laws which will raise the moral standard of the people. Morality cannot be entirely divorced from politics.

DIFFERENCE

In spite of the intimate relationship between them, law and morality differ from each other. The following points of distinction may be noted :

(*i*) Law is concerned with external conduct and actions of human beings. Morality, on the other hand, deals with man's whole life—external as well as internal. Internal life refers to motives and thoughts of human beings.

Law has nothing to do with inner motives and thoughts, and it cannot punish a man for his thoughts howsoever bad they may be. Ingratitude, falsehood, jealousy, etc. are all immoral, but not illegal. Ingratitude of a person will be condemned by morality. A man may be always telling lies, but law can take no notice of him unless he is actually guilty of the breach of a contract. Morality is much wider in scope than law, for the former covers all external actions and internal motives of man—his word, deed as well as thought. In the words of Wilson :

"Ethics is concerned with all the actions of the individual. It touches the rectitude of each man's life, the truth of his dealing with his own conscience, the whole substance of character and conduct, righteousness both of act and of mental habit. Law, on the other hand, is concerned only with controlling outward acts of man."

(*ii*) Law is enforced by the State which can punish a person who commits a breach of law. Morality, on the other hand, is a matter of one's own conscience, and hence it cannot be enforced. A person breaking moral rules cannot be subjected to any physical punishment by any one. Moral rules are enforced by individual conscience and public opinion. Law cannot punish persons committing immoral acts, though such persons may be boycotted by society.

MacIver says : "Moral actions are a matter of choice of inner conscience of the individual ; laws are a matter of compulsion. The ethical appeal is always to the individual's own sense of what is right

or wrong, in the last resort always to his sense of what is good or evil."

(c) Law is more definite and uniform than morality. It is clear and is applicable equally to all citizens. Conceptions of morality and its standards differ from place to place and from person to person. [illegible]

(d) There are acts which are illegal but not immoral, e.g., riding a bicycle without light. There are acts which are immoral but not illegal, e.g., telling a lie. Thus the spheres of law and morality do not always coincide with each other. Law is often based on expediency.

POINTS AT A GLANCE

1. There is a very intimate relation between law and morality. The State tries to raise the moral standard of the people through its laws. People readily obey only those laws which are in accordance with the moral principles prevalent in a particular society.

2. Law and morality also differ from each other.

(a) Law is concerned with external human conduct only. Morality is concerned with the whole life of man.

(b) Breach of law brings punishment in its wake, but this is not the case with morality.

(c) Law is more definite than morality.

(d) There are certain acts which are illegal, but not immoral. There are certain acts which are immoral, but not illegal.

INTERNATIONAL LAW

49. What is international law? How far is it correct to say that international law is not law in the strict sense of the term?

Or

What is the nature of international law?

Or

"International law is the vanishing point of Jurisprudence." Discuss. *(V. Important)*

Today the different States of the world are interdependent. It is almost impossible for any State to live in complete isolation. It has to depend upon other States for trade and commerce. Scientific inventions, the rapid development of the means of communication, and some other similar factors have also enabled the different States to come into touch and deal with one another. To make international relations smooth it is necessary to have a set of rules which govern international law.

International law can, therefore, be defined as law which regulates inter-State dealings. It is a body of principles and rules

recognised as binding by the civilised States in their relations with one another.

This law is just opposed to municipal or national law which is the internal law of a particular State. Municipal law applies to individuals and associations within the State. International law, on the other hand, regulates the relations among the different States of the world.

The laws of peace, the laws of war and the laws of neutrality are the different branches of international law

The laws of peace regulate the relations of the different States of the world in times of peace. They define the territorial rights of each State including rights over the marginal sea and the air space, the rights of citizens of one State living within the jurisdiction of another State, rights and duties of ambassadors and other diplomatic agents, etc.

A large part of international law deals with war. Treatment of war prisoners, the use of poison gas, the bombing of civilian population, punishment of spies, etc., are all regulated by the laws of war.

Laws of neutrality deal with the conduct of the neutral States in times of war. The neutral States are permitted to carry on trade and commerce, but they cannot actively help any of the belligerent Powers (Powers which are engaged in war). We can say that the laws of neutrality deal with the rights and duties of those States which remain at peace with States between which war has broken out.

IS INTERNATIONAL LAW REALLY LAW ?

It is often asked whether international law can be regarded as law at all. Is it a branch of jurisprudence proper, or merely a body of rules of international morality ? There are some writers and thinkers who say that the term "Law" should not be applied to the rules of international conduct. There are others who defend the use of this term, and say that international law is really law. It is not the vanishing point of jurisprudence (science or system of laws), as it is sometimes suggested.

According to Austin and other legalists, law is a command issued by a determinate superior to his inferiors. A law, they say, must have a definite origin. International law does not originate from a definite authority. It is not the command of a sovereign political authority. There is no international parliament which can lay down the rules of international conduct. As it is not issued by a definite superior body, international law cannot be regarded as law proper.

Critics further argue that there is no coercive power behind international law. The different States of the world may or may not obey the rules of international conduct. Every State is sovereign. If a rule does not suit a particular State, it can violate it with impunity. There is no international police or army which can compel States to obey international law. Municipal law (Law of a

particular State) cannot be violated with impunity. If a citizen breaks a law imposed upon him by the State, he is punished by the State. No such punishment is inflicted on an offending State. The international law is like a body of rules of moral conduct which may or may not be observed, for there is no fear of punishment. It has only a moral status, and not a legal status. So it is argued that international law should be regarded as international rules of morality rather than international 'law'.

DEFENCE

There are many other writers who hold that international law is in reality positive law, and is thus a branch of jurisprudence. They put forward the following arguments :

The definition of law as given by Austin is too narrow. Every law is not the command of a determinate superior. In every State, the customs of the people are a very important source of positive law. Similarly, the customs within the family of nations are an important source of international law. International treaties entered into by the different States of the world constitute another important source of international law. It is not essential that a law should always be laid down by a determinate superior or some definite legislature.

Moreover, it is wrong to say that the only sanction behind law is force. The real sanctions behind municipal law are its utility, public opinion and the law-abiding habits of the people. Similarly, the sanction behind international law are its utility, growing world opinion and the law-abiding habits of the States of the world. Every civilised State today realises the utility of internationl law. It knows that no international trade or peaceful existence is possible if international law is not respected. World opinion is fast growing in its favour. Whenever a State is accused of breach of international law, it tries to defend itself like an accused person. This shows that every State is afraid of public opinion, and it cannot easily violate the rules of international conduct. Moreover, economic and military sanctions are also employed against States which violate international law.

To say that all States are sovereign and they can easily violate international law is not correct. The doctrine of absolute sovereignty in the international sphere is a fiction. The different States of the world are interdependent, and they cannot afford to ignore the rules of international conduct. Even if international law is violated by some States and they escape punishment, it does not mean that there is no international law. What about municipal law ? Do the people not commit murder, theft and other crimes ? Do some of the criminals not escape punishment ? But we never say that municipal law does not exist. As a matter of fact, most of the States, like individuals, are law-abiding. They faithfully observe the rules of international conduct.

CONCLUSION

What is the outcome of this discussion ? We can say that there is not much difference between the principles of international

law and those of the law imposed by States upon their citizens. International law is law proper. Its existence is recognised by the [illegible] of States, and their legislatures do not make any law which is against any rule of international conduct. It has grown and is growing in response to the needs of the world. There can be no [illegible] without it. The different States of the world [illegible] some rules to regulate their [illegible]. International law has come into existence to satisfy that need.

POINTS AT A GLANCE

1. International law is that law which regulates inter-State dealings.

2. The important branches of the international law are the laws of peace, the laws of war and the laws of neutrality.

3. Some eminent writers hold that it is not law proper. Their arguments are :

(a) There is no determinate superior to issue international law ;

(b) There is no coercive power behind it.

4. Many eminent writers are of the opinion that International law is law proper. Their arguments are :

(a) It is not essential that a law should be laid down by a determinate authority or legislature. It may be the outcome of customs also. International treaties and customs which grow up within the family of nations are among the important sources of international law.

(b) The real sanction behind law is not force. Laws are obeyed because of their utility, public opinion and the law-abiding habits of the people.

5. The second view seems to be correct.

50. What are the sources of international law ?

The most important sources of international law can be discussed under the following heads :

1. **Treaties.** Treaties are the most important source of international law. They may be bilateral or multilateral. A bilateral treaty is between two States. Its provisions are binding only on the two States concerned. The other States are not bound by them. But the principles they lay down may act as precedents for other States. A multilateral treaty is a treaty signed by many States at a time. The principles laid down by such treaties generally tend to have universal application.

2. **International Conference.** The decisions arrived at international conferences by civilised States are another source of international law. For example, the Hague Conferences contributed a good deal to the development of international law.

3. **Text Book Writers.** Jurists commentators by years of labour and research collect the rules followed by States in their

dealings with one another. They define and interpret such rules. Their writings are taken as evidence of what those rules are. The writings of Grotius contributed greatly to the development of international law. Lawrence, Oppenheim and Hall are among the more modern writers on international law.

4. **Custom.** Customs are another important source of international law. Just as customs grow in society, they grow in the family of nations also. Certain customs have long been regulating inter-State relations. They are generally regarded as legally valid by international and national courts.

5. **Judgments of International Tribunals.** International tribunals like the International Court of Justice decide international disputes referred to them. Their judgments act as precedents. They are, therefore, an important source of law.

6. **Municipal Law.** The laws of particular State constitute municipal law. Many of these deal with the rights and duties of ambassadors, foreigners, etc. As such, they have international importance, and are a source of international law.

History of wars and diplomacy, diplomatic correspondence, etc., are some other sources of international law.

POINTS AT A GLANCE

1. The sources of international law are :

- *(i) Treaties.*
- *(ii) Decisions arrived at International Conferences.*
- *(iii) Opinions of Jurists.*
- *(iv) Customs.*
- *(v) Municipal Laws.*
- *(vi) Judgments of International Tribunals.*
- *(vii) History of war and diplomacy, diplomatic correspondence, etc.*

51. What do you understand by Rule of Law ? How does it differ from *droit administratif* (Administrative Law) ?

(V. Important)

Meaning of Rule of Law. Rule of Law implies two things—(*a*) no person can be punished or deprived of life, liberty and property except for a breach of law established in an ordinary court of law. The executive branch of government cannot behave in an arbitrary manner. An arrest, for example, is justifiable only when the person arrested is suspected of having committed a crime, and is to be produced in a court of law for trial. In England (in India also) the freedom of the individual is safeguarded by the most famous writ, the writ of *habeas corpus*. Whenever any man in England is detained against his will, not by sentence of the ordinary courts, but by anyone else, then he or any one on his behalf is entitled to apply to a competent court to determine whether his detention is lawful or not. The court will then, by this writ, command the jailor or whoever is detaining him, to bring him before the court ; and, unless the detention is shown to be lawful, the court will at once set him free.

The writ of *habeas corpus* is available, not only where the original detention is unlawful, but also when a man, who has been lawfully arrested on a criminal charge, is kept in prison without trial. The police has no right to hold him on its own authority for more than a day. He must be brought before a magistrate within 24 hours and it is then for the magistrate to decide whether he shall be further detained pending trial or let out on bail. This is in sharp contrast to the position in totalitarian States (dictatorships) where the executive branch of government exercises arbitrary powers. It can arrest a person and detain him indefinitely without trial.

(*b*) The second meaning of the principle of the Rule of Law is that no person is above law and all persons, private citizens and government officials, are subject to the same law of the land. There are no separate courts, or separate law for government servants. All are tried in the ordinary courts of the land and according to the ordinary law. Any official, guilty of a wrongful act, irrespective of his rank or condition, is under the same responsibility as any other citizen.

In short, the Rule of Law implies absence of arbitrary power and equality before the law. This system prevails in England and the U.S.A. It also prevails in India. The Constitution of India guarantees equality before law and under it no person can be made to suffer except for a distinct breach of law established in an ordinary court of law.

The system of the Rule of Law is quite opposed to that which prevails in France and other European countries. In France and other European countries the system of Administrative Law prevails. Government servants there are given special status when they commit an illegal act in discharging public duties. They are tried in special courts called administrative courts, and they are tried according to a special law called Administrative Law. They are not subject to the ordinary law of the land, nor can they be tried in the ordinary courts. They get this special treatment when they act in their official capacity. They would be tried in ordinary courts if they commit any illegal act in their private capacity. Moreover, these countries do not possess any procedure corresponding to the writ of *habeas corpus*. They have no means whereby a man who is unlawfully detained can be at once set free. All that a man can do there is to lodge a complaint with a police officer, who should then transmit it to a magistrate, but if the police officer does not do his duty, as for instance if he refuses or neglects to put it before a magistrate, the man has no remedy except to charge the police officer with an offence. There is no machinery by means of which he can go straight to the judge. Nor is there any means of obtaining a speedy trial.

COMMENTS

Dicey and some other writers say that the Rule of Law protects better the rights of the people than the Administrative Law. They argue that as administrative courts are composed of officials, they will naturally favour a government servant who has committed an illegal act. In this way an aggrieved private citizen cannot expect

justice from these courts. They believe this system is undemocratic and encourages the executive to be irresponsible and high-handed.

On the other hand, there are some writers who believe that the French people have better protection of their rights under the Administrative Law. According to them, the procedure adopted in French Administrative courts is simple and least expensive. Cases are decided very promptly. If it is proved that a citizen has suffered at the hands of a public servant he can realize compensation from the government while under the Rule of Law in England or America, a decree against a public official (say, a postman) of a heavy sum would mean nothing to the injured person, for the official would never be able to pay it.

An interesting contrast is offered by the way in which England and France deal with explosions in munitions factories. The Administrative courts in France hold that, if anyone in a factory is injured by an explosion, the risk should fall on the government ; whereas the English courts hold that, apart from national insurance benefits, the government is not liable unless the injured person proves that there was negligence on the part of some servant of the Crown which is often an impossible task. In other words, the English courts still adhere to the nineteenth century doctrine that there should be no liability without fault, whereas the French administrative courts adopt the view that "justice requires that the government should be responsible to the workman for the risks which he runs by reason of his part in the public service."

Indeed, comparing the two systems, it would seem that the French system of administrative courts is worthy of more respect from people than it has sometimes received.

It may be mentioned here that the Rule of Law, in the strict sense, does not exist in any State today. For example, even in England certain persons enjoy immunity from the jurisdiction of the courts. The position of the Queen provides an illustration. She cannot be tried even if she commits a murder. Moreover, in England, America, India, etc,, many administrative tribunals have come into existence. They exercise what is essentially a judicial function.

POINTS AT A GLANCE

1. *Rule of Law has two meanings :—*

   (a) *No citizen may be punished unless he has been found guilty after a trial before a regular court. There can be no arbitrary conviction.*

   (b, *Government servants and private citizens are equally subject to one body of law and one system of courts.*

2. *Administrative Law distinguishes between private citizens and public officials. A public official is tried in a special court according to a special law for committing illegal acts in his official capacity.*

3. *Some writers opine that Aministrative Law and administrative courts cannot protect the rights of private citizens. This is not an entirely correct view.*

SUGGESTIVE QUESTIONS

1. Discuss the nature and sources of law.

2. What is law ? How does it differ from ethics ?

3. How does the Rule of Law protect the liberty of the subject ? Can the system of Administrative Law as it obtains in France do this ?

4. What is *droit administratif* (Administrative Law) ? How does it differ from the Rule of Law ?

CHAPTER XIII

CONSTITUTIONS

Outline

Definition

Written and unwritten Constitutions

Rigid and flexible Constitutions

Methods of Amendment

Requisites of a Constitution

52. Define Constitution. Distinguish between (*a*) unwritten and written Constitutions; (*b*) flexible and rigid Constitutions. Describe the merits and demerits of each.

DEFINITION

The foundation of any system of government is its Constitution or fundamental law. Every State must have a Constitution. Even a State governed by a dictator has a Constitution. A State having no Constitution cannot be called a State. It is a regime of anarchy.

But what is a Constitution? It has been defined as a body of rules, written or unwritten, according to which government as an agent of the State is carried on. These rules deal with the form of government, the structure and the functions of the various organs of government, and relations between the same. The principles, according to which the rights and duties of citizens are regulated, are also prescribed in the Constitution. Woolsey defines Constitution as "the collection of principles according to which the powers of government, the rights of the governed and the relations between the two are adjusted." Aristotle says, "Constitution is the way of life the State has chosen for itself." In short, a Constitution is a "frame" or "foundation" of government.

Constitutions are generally classified as (*a*) written and unwritten; (*b*) flexible and rigid. Some writers divide Constitutions into two classes—democratic and dictatorial. A democratic Constitution is further classified as unitary and federal, parliamentary and presidential. As a matter of fact, these terms stand more for the forms of government than for the kinds of Constitution.

WRITTEN AND UNWRITTEN CONSTITUTIONS

A written Constitution is one in which most of the fundamental rules of governmental organisation are contained in a document or documents. A written Constitution is always the result of the conscious efforts by a Constituent Assembly. The United States, France, India etc., are States with written or enacted Constitutions.

An unwritten Constitution is one in which most of the fundamental principles of governmental organisation are not reduced to writing by any authorised body of persons. It is based on customs, precedents, judicial decisions and statutes enacted at different times. It is not a systematic and coherent document. Such is the Constitu-

tion of Britain, for it was not made by any particular authority at any particular time. It has grown by degrees.

The distinction between written or unwritten Constitutions must not be taken in a very literal sense. The difference between them is one of degree rather than of kind. The distinction is more apparent than real. No Constitution is wholly written or wholly unwritten. All written Constitutions, even of short duration, do contain many unwritten elements in the form of usages and conventions. It is said that the Constitution of Britain is unwritten. But even the British Constitution contains important written elements such as Magna Carta (1215), the Bill of Rights (1688), Parliament Act of 1911, Parliament Act of 1949, etc. As a matter of fact, a considerable part of the British Constitution has been reduced to writing. The written portion of this Constitution exists in the form of Charters and Acts of Parliament.

The American Constitution is an example of a written Constitution. But even this Constitution contains some unwritten elements in the form of usages and conventions. A couple of examples will make this point clear. The American Constitution provides that all federal appointments shall be made by the U.S. President and approved by the Senate. The President has no time to look into all the appointments which number in thousands. So he has delegated his power of making appointments to the Senators from the state (unit) where there is a vacancy. The only condition is that the Senators must belong to his party. The appointments made by such Senators are approved automatically by the Senate out of courtesy. This convention is known as "Senatorial Courtesy", and it has changed the whole method of making appointments. The rule that the American President could seek election only for two terms was the result of a convention set up by George Washington, the first President of the U.S.A. This convention was reduced to writing only in 1951. Again, the American Constitution provides for the indirect election of the President, but today his election has become virtually direct. The Constitution requires that a candidate contesting a seat in the House of Representatives should be a resident of the state (unit), but convention requires that he should also be a resident of the constituency from which he seeks election.

The difference between written and an unwritten Constitution is, therefore, not of much significance in practice. Leacock is right when he says that "the distinction between States with written and those with unwritten Constitutions is an illusory basis of division." Unwritten Constitutions have tended to become written and written Constitutions have developed unwritten elements. The modern trend is strongly in the direction of written Constitutions. The British Constitution remains the only Constitution which is mainly unwritten.

MERITS AND DEMERITS

An unwritten Constitution has the advantage of elasticity and adaptability. It can easily adapt itself to changing conditions. This adaptability is especially useful in times of emergency or of rapid social change.

But an unwritten Constitution has been criticised on the ground that it is vague and indefinite. It is not able to safeguard the rights of people effectively. It demands a high degree of political consciousness and vigilance on the part of the people to resist a government which tries to usurp their rights and liberties. In modern times, people generally prefer a written Consitution to an unwritten one. They want something plain and clear.

A written Constitution is usually framed with care, and is more clear and definite than a Constitution which is mainly customary. In case of doubt or dispute, it can always be referred to. It clearly lays down the powers of different organs of government, and explains the relation which exists between them. Thus each organ of government knows definitely its powers and functions. It also contains the fundamental rights of the people, which the legislature or executive cannot set aside. A written Constitution, therefore, guarantees individual rights more effectively. Moreover, a written Constitution is one of the essential features of a federation. Laski says : "A written Constitution is the only method by which the effective control of powers allotted to the constituent parts of a federation can be guaranteed to them." An unwritten Constitution cannot suit a federation.

But the defect of a written Constitution is that its written character makes it rigid. It cannot be easily changed to deal with changing circumstantces.

FLEXIBLE AND RIGID CONSTITUTIONS

Lord Bryce in his book, *Studies in History and Jurisprudence*, classifies Constitutions as rigid and flexible. This distinction is more scientific and important.

If the Constitution can be amended by the legislature in the same way as ordinary laws are passed, it is said to be flexible. The Constitution of Britain is flexible. The British Parliament can amend it in the same manner as it passes, or repeals ordinary laws. The British Parliament has both legislative and constituent powers.

If the method of amending the Constitution is different from that of passing ordinary laws, the Constitution is rigid. All written Constitutions are generally (not always) rigid. America has a rigid Constitution. The U S. Congress (the American legislature) cannot amend the Constitution of the country. The procedure of amending the American Constitution is complicated. The Constitution has laid down two ways of proposing amendments and two ways of ratifying them.

Proposing the Amendment. (*a*) An Amendment may be proposed by two-thirds majority in each House of Congress, or (*b*) it may be proposed by a Convention (representative meeting or assembly of the people) called by Congress at the request of the legislatures of two-thirds of the states (units).

Ratification of the Amendment. (*a*) The proposed amendment may be ratified by the legislatures of three-fourths of the states, or (*b*) it may be ratified by Conventions called for this purpose in three-fourths of the states. Congress determines which method of

ratification is to be employed. Ordinarily, amendments are proposed by Congress and ratified by the legislatures of the states.

It is clear from above that the amending of the American Constitution is a very difficult process. It is not an easy thing to secure two-thirds majority of Congress for proposing amendments, and it is still more difficult to get any amendment ratified by three-fourths of the states. Even thirteen states can join together and kill any amendment. This explains why only 22 amendments have taken place during the last 170 years or so in the American Constitution.

MERITS AND DEMERITS

The great merit of a flexible Constitution is its adaptability. It can easily adapt itself to changing times. As it can be altered with the same ease with which ordinary laws are made or changed, it can adjust itself to the growing needs of the people. It does not stand in the way of the people. It does not cause unnecessary delay in bringing about necessary changes. Thus it saves the country from the risks of a violent revolution. It is the flexible nature of the British Constitution which has saved Britain many a time from political unheavals. If people find that the Constitution of their country is an obstacle in their way, they generally rise in revolt and bring about a wholesale change in the Constitution. A flexible Constitution bends, but does not break. It at once responds to the needs of the people. Bryce has rightly put that "flexible Constitutions can be stretched or bent so as to meet emergencies without breaking their framework; and when the emergency has passed, they slip back into their old form, like a tree whose outer branches have been pulled on one side to let a vehicle pass."

But the great weakness of a flexible Constitution is that it is very unstable. It can easily become a plaything in the hands of legislators and politicians who may change the Constitution very often to satisfy their whims. Frequent changes in the Constitution are not desirable because they create political uncertainty in the country. People have no faith in a Constitution which is changed frequently.

A rigid Constitution is always written. It is, therefore, more definite, stable and certain than a flexible Constitution, the major portion of which consists of usages and conventions. In case of a constitutional doubt, the written document can always be referred to. As it prescribes a different method for its amendment, and the legislature is not allowed to change it according to the ordinary procedure, it is more stable and certain than a flexible Constitution. It cannot become a plaything in the hands of political parties. The second advantage of this type of Constitution is that it affords greater protection of rights to the people. It restricts in clear terms the organs of government to their respective spheres, and does not allow them to pass a measure which is against the fundamental rights of the people. Another advantage of a rigid Constitution is that it is essential for a federation. A federation generally comes into existence as a result of an agreement entered into by a number of independent States. The federating states are always eager to preserve their local autonomy. They want that the Constitution of the fede-

rations must be put in black and white so that there may not be any dispute between the common central government and the federating states. At the same time they want that the central legislature must not be allowed to amend the Constitution according to the ordinary method of legislation, otherwise they will feel insecure with regard to their rights and powers. In order to safeguard their rights and powers, it is essential that the Constitution of a federation should be rigid.

But a rigid Constitution is not free from defects. The main defect of this Constitution is that it does not respond to the changing conditions. It tries to put in a single document the wisdom of all the ages. It ignores the fact that the needs of a nation go on changing. A thing which is fundamental today may not remain so in a later period. To make a Constitution "too rigid" is an insult to the intelligence of the people. It is possible that difficulty in its prompt amendment may lead to a political upheaval. People may rise in revolt, and bring about a wholesale destruction of the rigid Constitution.

CONCLUSION

A Constitution should neither be too rigid nor too flexible. Too rigid a Constitution is opposed to the law of progress. Too flexible a Constitution is also not a desirable thing. There is a fundamental difference between a constitutional and an ordinary law. The ordinary legislature should not be allowed to tamper with basic principles. The amending process must be difficult enough to ensure good thought and consideration before any fundamental change is made. A Constitution should be a mixture **of flexibility and rigidity.**

POINTS AT A GLANCE

1. A Constitution is a set of fundamental rules, written or unwritten, according to which government of a country is run.

2. Constitutions are usually classified as written and unwritten. This classification is unscientific, as there is not a single Constitution in the world which is wholly written or entirely unwritten.

3. Unwritten Constitutions have the advantage that they are elastic and can easily adapt themselves to the changing circumstances. But their main defect is that they are vague and indefinite, and are not able to safeguard the right of people effectively. Written Constitutions are definite, but they lack adaptability.

4. Lord Bryce classifies Constitutions as flexible and rigid. A flexible Constitution is one which can be amended by the legislature in the same way as ordinary laws are passed. If the method of amending the Constitution is different from that of passing ordinary laws, the Constitution is rigid.

5. A flexible Constitution can easily adjust itself to the changing cricumstances, and thus prevents political upheavals. But its defect is that it is not stable.

6. A written Constitution is stable and definite, and it protects the rights of the people in a better way. Moreover, a rigid Constitution

is essential for a federation. But its main defect is that it does not respond to the changing conditions, and thus it often becomes a cause of popular discontent.

7. A Constitution should be a mixture of flexibility and rigidity.

53. Describe the principal methods of amending a Constitution.

A Constitution is a set of fundamental rules according to which government of a country is run. It determines the structure of government and adjusts the relations between the three organs of government. It also defines the relations between government and the governed and thus serves as an instrument of protecting the rights and liberties of the people.

A good Constitution is one which normally reflects the conditions prevailing in the State and the needs of the people. As time passes, these conditions and needs change and it becomes necessary to amend the Constitution in the light of the changed circumstances. The following are the principal methods according to which Constitutions are amended.

1. By the ordinary process of legislation. A flexible Constitution can be amended by the legislature according to the ordinary procedure of law-making. Britain possesses a flexible Constitution. Its Constitution can be amended by Parliament in the same manner as it passes or amends ordinary laws. The Indian Parliament is authorised to amend some of the provisions of the Indian Constitution by a simple majority.

2. Special method. Rigid Constitutions require special methods of amendment.

(*a*) **Special majority.** Amendment may be effected by the legislature according to a special procedure. For example, the legislature of the U.S.S.R. (The Supreme Soviet) can amend the Constitution by a two-thirds majority in each of the two chambers. The Indian Parliament can amend many provisions of the Constitution by a special majority in each of the two Chambers.

(*b*) **Joint Session.** In France the two chambers of the legislature in a joint session can amend the Constitution by a majority vote.

(*c*) **Consent of the Units.** In some federations, an amendment to the Constitution can be effected only with the consent of the majority of the federating states. The U. S. Constitution requires a three-fourths majority of the federating States. In India some important provisions of the Constitution can be amended with the consent of a majority of units.

(*d*) **Referendum.** In some States, proposed amendments are referred to the people and ratified by a majority of voters. Switzerland uses this method.

1. If a Constitution is flexible, it can be amended by the ordinary legislature according to the procedure.

2. Rigid Constitutions require special methods. A rigid Constitution may be amended by the legislature with the help of a special majority as in Soviet Russia. It may be amended by the legislature at a joint session of the two houses as in France. It may be amended with the consent of majority of units of a federation as in the U.S.A. It may be amended by a referendum of the entire body voters as in Switzerland.

54. What are the characteristics of a good Constitution? How does a written and rigid Constitution grow?

A good Constitution should possess the following characteristics: —

1. **Definite.** It must clearly define what it contains. It should be easily understood by the people. Written and carefully worded Constitutions are considered to be more satisfactory than unwritten Constitutions.

2. **Comprehensive.** A Constitution should be comprehensive. It should cover the whole field of government. It must deal with the organisation and powers of the various organs of government.

3. **Brief.** Another characteristic of a good Constitution is its brevity. It should state only the necessary provisions. A detailed Constitution will lead to many constitutional disputes. A good Constitution never tries to lay down minute details.

4. **Durable and Elastic.** It should be durable. It should be "neither so rigid as to prevent change, nor so flexible as to encourage tampering with basic principles". It should be capable of being easily amended and adjusted to suit the growing needs of the people. A Constitution should keep pace with the changing times. But this does not mean that the Constitution should sacrifice its stability. It is necessary that stability and flexibility in a Constitution should go hand-in-hand.

5. **Fundamental Rights.** It should contain the declaration of the fundamental rights of the citizens.

6. **Suitable.** A Constitution should suit the social, political and economic conditions prevailing in the country.

GROWTH

A written and rigid Constitution grows in the following ways:

1. **Formal amendment.** A written Constitution generally lays down the method according to which it can be amended. The method of changing a written Constitution is not the same everywhere. It varies from State to State.

2. **Conventions.** Constitutional conventions play a very important role in the development of a written and rigid Constitution. Customs and usages are an important factor in modifying the

contents of a written Constitution. The American Constitution, which is considered to be a very rigid one, has been greatly enriched by conventions.

3. **Judicial Interpretations.** Judicial decisions also enable a Constitution to keep pace with the changing conditions. For example, the Supreme Court of the U.S.A. has played an important part in the expansion of the American Constitution. It has increased the powers of the Centre by means of the doctrine of 'implied powers' and thus it has fulfilled the need of modern times. Had it not put a broad and liberal interpretation upon the original Constitution, many of the powers (control of the radio, aeroplanes, etc.) which now belong to the Centre and should belong to it, must have gone to the federating states.

POINTS AT A GLANCE

1. *The following are the features of a good Constitution :*
   (a) *It is definite.*
   (b) *It is comprehensive.*
   (c) *It is brief.*
   (d) *It is durable and elastic.*
   (e) *It contains a list of fundamental rights of the people.*
   (f) *It suits the social, political and economic conditions prevailing in the country.*

   A written and rigid Constitution grows in three ways :
   (a) *Formal amendments.*
   (b) *Conventions.*
   (c) *Judicial interpretations.*

SUGGESTIVE QUESTIONS

1. Define 'Constitution.' Why is it necessary for a federation to have a written Constitution ?

2. Distinguish between rigid and flexible Constitutions. Are the Constitutions of the U.S.A. and India rigid or flexible ?

3. How does a written Constitution grow ?

CHAPTER XIV

ORGANS OF GOVERNMENT (LEGISLATURE)

Outline

Functions — Legislature
Unicameralism Vs. Bicameralism
Organisation and Function of Lower Chamber
Organisation and Functions of Upper Chamber
Direct Legislation

55. What are the functions of the legislature in the modern democracies ?

Government is the machinery of the State. It consists of three organs or branches : the legislature, the executive and the judiciary. The legislature is the most important of the three organs. It alone knows the hopes and aspirations of the people, and to it belongs the task of embodying these into laws. The laws made by it are executed by the executive and applied to given cases by the judiciary. Making of laws is not the only function of the legislature. It performs many other functions.

The functions of the legislature may be broadly classified as follows :

1. **Legislative.** The basic function of the leislature is to make laws. It makes new laws in accordance with the changing needs of society, and amends or repeals old laws as required under the circumstances. The legislative function consists of two parts—deliberation (careful consideration and thinking) and drafting.

Moreover, the legislature deliberates on the needs and problems of the people. This is done through motions of various kinds and through resolutions. Discussions which take place in the legislature throw a good deal of light on the state of affairs in the country.

2. **Control over Finance.** In almost every modern democratic State, the legislature has control over the public purse. The legislature suggests the ways and means of raising the revenue and spending it. The executive submits the budget to the legislature. The latter discusses the various items, and passes them as it likes. It sees that the money granted is spent without any wastage. It also determines the purposes for which the money is to be spent.

3. **Control over the Executive.** In a parliamentary form of government, the legislature controls the real executive, *i.e.*, the Cabinet. The executive has to follow the policy as approved by the legislature. The former is responsible to the latter for all its actions and policies. Every minister has to give a reply to any question and supplementary question put to him by a member of the legislature. The Cabinet has to resign in a body when the legislature indicates its lack of confidence in it. In a presidential

form of government, the executive is independent of the control of the legislature, but the legislature is able to control it indirectly through its control over money. In the United States, where the presidential system operates, the Constitution has given the Senate (upper house of the legislature) the power of ratifying treaties negotiated by the President. By exercising this power effectively, the Senate can easily influence the foreign policy pursued by the President.

4. Judicial Functions. The legislature possesses some judicial powers also. Some legislatures have the power to impeach high political officers of the State. For example, the U.S. Congress enjoys the power to impeach the President and other officers of the State. In Britain, the House of Lords is the highest court of appeal. The legislature generally enjoys the power of dismissing judges for misconduct.

5. Constituent Function. In some States, the legislature has the power to amend the Constitution. The British Parliament, for example, can amend the Constitution. In Britain, no distinction is maintained between an ordinary law and a constitutional law, and the legislature can deal with both in the same way. The Indian Parliament can amend most of the Constitution itself. The American Congress can only propose an amendment to the Constitution.

6. Electoral. The legislature in certain States performs the electoral function also. For example, the elected members of the Indian Parliament together with the elected members of the Legislative Assemblies elects the President of India. The House of Representatives of America elects the President from among the first three candidates if none of them is able to secure an absolute majority of votes in the presidential election.

Thus, the legislative organ of government performs various functions of great importance besides its basic or primary function of law-making.

POINTS AT A GLANCE

1. *Government consists of three organs—the legislature, the executive and the judiciary.*

2. *The functions and powers of the legislature are :—*

   (a) *It makes laws.*
   (b) *It controls public purse.*
   (c) *It controls the executive.*
   (d) *It performs some judicial functions.*
   (e) *It enjoys constituent powers.*
   (f) *Legislatures in some States exercise electoral powers.*

UNICAMERALISM AND BICAMERALISM

[6] "Of all the devices that have been used to secure in the work of legislatures the element of caution and reflection, the most important is the division of the legislature into two chambers." Explain and discuss.

Or

Critically examine the advantages and disadvantages of second or upper chambers. (*V. Important*)

An assembly of persons brought together for the purpose of making laws is called a house or chamber. Most of the important countries today have two-chamber legislatures. The British Parliament consists of the House of Commons and the House of Lords. The American Congress is composed of the House of Representatives and the Senate. The two chambers or Houses of the Indian Parliament are the Lok Sabha and the Rajya Sabha. The system of organising a legislature into two chambers is known as bicameralism. Opposed to this system is unicameralism or the system of organising a legislature into one chamber. In a bicameral legislature, one of the chambers consists of the representatives of all the qualified voters. It is called the popular or lower first chamber. The other chamber, which is generally organised on a different basis, is known as the upper or second chamber. For example, the Lok Sabha in India is the popular or lower chamber and the Rajya Sabha is the upper or second chamber of Parliament.

The organisation of the legislature has been for long a matter of considerable controversy amony political scientists. There are some writers and thinkers who believe that a bicameral legislature is very useful in a democratic State. There are others who say that a second chamber is either superfluous or mischeivous, and that a legislature consisting of only one chamber is quite suitable for the modern State. The issue cannot be said to have been finally settled yet.

CASE FOR BICAMERALISM OR SECOND CHAMBERS

Bicameralism has been defended on several grounds :

1. The first argument in favour of a second chamber is that it prevents undue concentration of political power in a single body which may, if unchecked, become arbitrary and despotic. Just as an individual is tempted to act as a despot and some check is necessary, a second chamber serves as a guarantee against the despotism of the popular chamber. An all-powerful unicameral body may become hateful, corrupt and tyrannical. "The same reason which induced the Romans to have two consuls makes it desirable that there should be two chambers, so that neither of them may be exposed to the corrupting influence of undivided power, even for the space of a single year." (*J.S. Miu*)

2. It is argued by the advocates of bicameralism that a second chamber serves as a check on hasty and rash legislation. It serves as a brake on the wheel. A popularly elected chamber may pass certain laws in haste. Such laws may be injurious to the people in the long run. A second chamber makes provision for revision and second thought. It interposes necessary delay between the introduction of a Bill and its final passage.

3. Another argument put forward by the supporters of bicameralism is that a second chamber is a necessity in a federal system. The lower house of the legislature in a federation represent the whole

[illegible]. The units of federation always insist that they should be given representation on a basis of equality in a second chamber so that they [illegible] their own interests. If the legislature [illegible] the danger [illegible] that it may be dominated by a few [illegible] the rights of the smaller [illegible]. In the United States, every State [illegible] in the Senate.

[illegible] The advocates of a second chamber maintain that such a chamber [illegible] means of [illegible] representation to [illegible], etc. and to minorities, and the [illegible] persons, who are not [illegible] the other, can be made [illegible] by nominating them to the second chamber.

[illegible] Lastly, it is pointed out, legislative work has increased tremendously these days, and if there is a second chamber, it can relieve the [illegible] of work on the popular chamber. Non-controversial Bills can be first considered in the second chamber and the popular or lower chamber need not spend much time over their consideration.

These are the main arguments usually advanced in favour of bicameralism.

CASE AGAINST BICAMERALISM (OR CASE FOR UNICAMERALISM)

Critics of second chambers and advocates of the unicameral legislature point out :

1. A second chamber cannot effectively control the despotic tendencies, if any, of a chamber which represents the masses. How will it listen to the second chamber which does not represent the people ! It is only public opinion which can act a check on the despotic tendencies of the popular chamber. The presence of a second chamber cannot exercise any sizable influence on the popular chamber in this matter.

2. It means waste of time and energy to reconsider what has already been passed after thorough consideration by the lower house. The process appears to be unnecessary. Prof. Laski points out that legislation in modern times does not suddenly, as out of a clear sky, find its way to the statute book. The legislation passed by the lower chamber is never hasty. Almost every important Bill becomes law as the result of a long process of discussion and analysis. Before a Bill is brought before the legislature, it is thoroughly considered by legal and other experts. It is also debated on the platform and in the press. In the legislature, it goes through various stages or "readings" and is minutely examined and scrutinised by committees. For example, the provisions of the Hindu Code Bill were discussed for years in India.

3. A second chamber is not necessary even in a federation. It is argued by the supporters of the second chamber that such a chamber is necessary to give representation to the units in the

federal legislature as they are keen to protect their interests. Against this view it can be said that members of the upper chamber always vote on party lines, and not on state lines. They care more for their own party than for their states. As a matter of fact, the Supreme Court can better protect the interests of the units than it can be done by a second chamber.

4. It is argued by critics that a second chamber often becomes the stronghold of vested interests and reactionary and conservative forces in society. It generally blocks the way of progressive laws passed by the lower or popular chamber. A truly representative, popularly elected chamber should not, in a democracy, be restrained by a second chamber which is organised on an undemocratic basis, and is packed with the sworn enemies of progress.

6. Abbe Sieyes, a French writer, argues against a second chamber in this way : "A law is the will of the people ; the people cannot have at the same time different wills on the same subject ; therefore, the legislature which represents the people ought to be one Where there are two chambers, discord and division will be inevitable and the will of the people will be paralysed by inaction." He further says : "If a second chamber dissents from the first, it is mischievous ; if it agrees with it, it is superfluous."

6. It is further said that a good deal of money is spent on a second chamber. This expenditure is out of proportion to the little good that it may sometimes do. It should, therefore, be abolished for the sake of economy. A second chamber is only a luxury.

7. A very important argument put forward against a second chamber is that it is almost impossible to organise a satisftory second chamber. There is no satisfactory method for constituting it. A hereditary or nominted second chamber is undemocratic. If it is elected directly, it will be a mere duplication of the lower chamber. If it is filled by indirect election, bribery and corruption is likly to prevail.

What is the outcome of this controversy ? The advantages of unicameralism far outweigh those of bicameralism, and we can agree with Laski that "it is better to have directly single-chamber government, and to throw the burden of control upon the electorate which chooses the chamber and the executive which directs its activities."

But the present position is that the modern States, having a bicameral legislature, are not prepared to abolish second chambers. It is still believed that a second chamber does serve some purpose. It can at least pass non-controversial Bills, relieving he pressure of work on the lower chamber. It can also discuss foreign policy and other important questions thoroughly at a time when the lower chamber is busy with some other work. It is, however, now generally recognised that the second chamber could enjoy less powers than the lower chamber. The will of the lower chamber must ultimately prevail. In Britain, the obstructive tactics of the House of Lords towards progressive and economic legislation led to the Parliament Act of 1911. This Act clipped the 'wings' of the House of Lords. The

House was deprived of all powers over financial legislation. It could delay other laws for only two years. The Parliament Act of 1949 curtailed its powers still further. The Lords can now delay the passing of a Bill by a maximum period of one year. The Rajya Sabha of India has no control over finacial legislation. With the exception of the American Senate, second chambers in other democratic countries have been reduced to a distinctly secondary position.

POINTS AT A GLANCE

1. If legislature consists of two chambers, it is known as a bicameral legislature. If it is a one chamber legislature, it is called a ***unicameral legislature.***

2. The house or chamber consisting of the representation of all the qualified voters is called the popular chamber or lower chamber. The other chamber, which is generally organised on a different basis, is called the upper chamber or second chamber.

3. A two-chamber or bicameral legislature has the following merits :—

- *(a) It is a safeguard against the despotism of the popular chamber.*
- *(b) It serves as check on hasty and rash legislation.*
- *(c) It is essential in a federation.*
- *(d) It enables special grounds and interests to have representation in the legislature.*
- *(e) It relieves the pressure of work on the popular chamber.*

Case against bicameralism :

- *(a) A second chamber is unable to control the despotic tendencies of the popular chamber.*
- *(b) There is no need of revising Bills passed by the popular chamber because such Bills are already thoroughly examined and scrutinised.*
- *(c) A second chamber is not necessary even in a federation. The Supreme Court can protect the rights and interests of units in a better way.*
- *(d) A second chamber is generally conservative and reactionary.*
- *(e) Where there are two chambers, deadlocks are inevitable. In this way the will of the people is paralysed.*
- *(f) It is not economical to have a second chamber.*
- *(g) It is almost impossible to organise a satisfactory second chamber.*

5. In spite of this strong criticism, most of the States are not prepared to dispense with second chambers. Anyhow, their powers have now been considerably reduced.

5. Is a second chamber indispensable in a federation ? Examine the advantages and disadvantages of second chambers.

It is generally said that a bicameral legislature is essential in a federal system. When different States combine to form a federation, they insist on retaining their distinctiveness. They want to be given equal representation as units in a separate chamber. Their fear is that if the federal (central) legislature is unicameral, it may be dominated by a few big and populous units; consequently, their interests and rights will be at the mercy of the bigger states.

As a matter of fact, a second chamber is not indispensable in a federation There are two reasons for that. Firstly the Supreme Court is the guardian of the Constitution. Naturally, it will protect the rights and powers that the Constitution gives to the units of a federation Secondly it has been seen in practice that members of the second chamber vote on party lines and not on 'state' lines. They care more for their party than for their states.

(For the second part of the question see answer to the previous question).

58. What are the main features of the composition of the popular or lower chamber of the legislature in a democracy ? What powers are generally given to it ?

There is a consensus of opinion among all political writers that the lower or popular chamber of the legislature in a democracy should be an epitome of the nation. It should reflect the will of the nation. That is why in almost every democratic State members of the lower chamber are elected directly by the masses on the basis of universal adult franchise. Formerly, sufferage was restricted to a few male adults. Educational and property qualifications used to be prescribed. But now such qualifications have been abolished in almost every democratic State. In India, for example, every citizen, man or woman of the age of 21 or more, participates directly in Lok Sabha elections. In Britain, franchise extends equally to men and women who have attained 21 years of age. The same is the case with most of the other democratic countries. Aliens, persons serving a prison sentence, or who have been certified as insane are generally not entitled to vote.

Another important principle with regard to the composition of the lower chamber is that its members must not be elected for a very long period. There should be periodic elections for this chamber so that members may continue to reflect the will of the people. But this does not mean that the tenure of this chamber should be very short. In that case they will not be able to do any useful work They will always be worried about their re-elction. A period of four or five years is regarded as quite satisfactory. Laski says : " The best period of power for a legislature seems to be not less than four nor more than five years". In India, the Lok Sabha and the Legislative Assemblies are elected for a term of five years. Members of the British House of Commons also have a five-year

term. The American House of Representatives is elected for two years only. A two-year term is not regarded as satisfactory.

The size of the chamber should also be determined carefully. If it is very large, effective consideration of Bills becomes difficult. If it is very short, the creation of reasonably small constituencies becomes difficult. If constituencies are very large, it will become difficult for members of the lower chamber to maintain contact with their voters. The area of the country and the size of its population must be taken into consideration while fixing the membership of the chamber. Some maximum strength of the chamber should also be fixed.

So far as the powers of the lower chamber are concerned, it is now universally recognised that it should be more powerful than the upper or second chamber. It should be strong enough to make the final decision in legislative and financial matters.

In countries having a parliamentary form of government, the real executive (i.e., the Cabinet) is made responsible generally to the lower chamber.

POINTS AT A GLANCE

1. In almost every democratic country, the lower chamber or house is elected directly by the people on the basis of universal adult franchise.

2. The tenure of the chamber must neither be too long nor too short. A period of 4 or 5 years is regarded as quite satisfactory.

3. The size of the chamber should be neither too large nor too small.

4. It should be more powerful than the second chamber.

52. What are the essentials of a good second chamber? What functions should it perform? How should it be composed?

Essentials of a good Second Chamber. If a second chamber is to be created, it must possess the following attributes or essentials:

1. A second chamber must not stand in the way of the lower chamber which represents the masses. It may resist, but it should not persist.

2. It should not be composed on the same basis as the lower chamber. It should not be a duplicate copy of the lower chamber. It must have some distinctiveness of its own. If the lower chamber represents the masses, it should represent knowledge, experience and ability.

Functions. According to Lord Bryce, an ideal second chamber should perform the following functions:—

1. It may revise Bills passed by the lower chamber. While doing so, it should not prove an obstacle in the way of the lower chamber. It should interpose only necessary delay in the passage of a Bill.

2. It may initiate Bills of non-controversial nature.

3. Important questions such as foreign policy can be discussed thoroughly in the second chamber where votes of members do not affect the Cabinet or 'Government'.

Composition. It is not easy to suggest how a second chamber should be composed. In Britain, the House of Lords is based upon hereditary principle. A hereditary second chamber is undemocratic. It cannot therefore command the respect and admiration of the people. A nominated second chamber, like the Senate of Canada, is also undemocratic. Nomination leads to favouritism. Seats are generally distributed among those persons who belong to the party in power, or who help the party with funds. Such a chamber cannot function properly. If a second chamber is elected directly as in the U.S.A., it may become too strong and assertive. The American Senate has been able to eclipse the lower chamber. Indirect election—election through an electoral college—is also defective. It is easier for the rich people to bribe members of electoral colleges than to corrupt ordinary voters whose number is very large.

Thus all the methods of composing a second chamber are unsatisfactory. Ramsay Muir and some other competent authorities have suggested that the majority of members of the second chamber may be elected by the lower house on the basis of proportional representation, and a small number may be nominated by the executive out of persons who have won distinction in various spheres of life. This seems to be the best method.

POINTS AT A GLANCE

1. *A good second chamber has the following features :—*
   - (a) *It does not stand in the way of the popular chamber.*
   - (b) *It is composed on a different basis. It is house of experienced statesment, scholars and able people.*
2. *The proper functions of a second chamber are :*
   - (a) *Revision of Bills.*
   - (b) *Initiation of non-controversial Bills.*
   - (c) *Discussion of important questions such as foreign policy.*
3. *A second chamber may be composed on :—*
   - (a) *Hereditary principle.*
   - (b) *Priniciple of nomination.*
   - (c) *Direct election.*
   - (d) *Indirect election.*

All these methods suffer from one defect or the other. The best method seems to be that a majority of members should be elected by the lower house according to the principle of proportional representation, and the rest may be nominated by the executive out of persons who have won distinction in various spheres of life.

DIRECT LEGISLATION

60. Explain the meaning of direct legislation and describe its different forms.

Or

Describe the working and utility of Referendum and Initiative.

(*V. Important*)

Direct legislation means legislation by the people themselves. Laws in the modern democracies (*i.e.*, representative democracies) are generally passed by legislatures consisting of the representatives of the people. The representative system is criticised on the ground that the representatives do not make laws in accordance with the wishes of the voters, and that they forget their promises and do whatever they like. To remove this defect, some of the States today provide for direct participation by the people in legislation, in addition to indirect legislation by the representatives of the people. There are two important ways of direct legislation—initiative and referendum.

Meaning of initiative. Initiative is a device by which a certain number of voters make a proposal for a law or for changing an old law, for its acceptance by the legislature or by the voters in general. It is a corrective to the omissions of the legislature. It enables the people to get certain laws passed even if the legislature is opposed to them.

Initiative is of two kinds—formulated and unformulated. Formulated initiative means that a specified number of voters submit a complete Bill to the legislature, and the legislature then submits it to the general voters. Initiative is called unformulated when a specified number of voters submit their proposal to the legislature in general terms. The legislature then prepares a Bill on the lines suggested in the petition made by the people and submits it to the popular vote. If the legislature does not approve of the proposal, it submits it to the general voters without drafting any Bill. If the majority of voters accept the proposal, legislature then prepares a Bill on the basis of that proposal, and then submits it to the voters again. The device of initiative is used in Switzerland and in some of the American states (units of the American federation). In Switzerland, initiative is used in the federation (Centre) only in respect of constitutional amendments. The Constitution provides that 50 000 Swiss voters can submit a constitutional proposal to the legislature, and this initiative demand may either be in the form of a complete Bill, or be couched in general terms.

In respect of constitutional amendments, initiative is used in all the Swiss cantons (units of the Swiss federation) except one. So far as ordinary laws are concerned, all but three cantons make use of initiative.

Meaning of Referendum. Referendum is a device by which certain laws, constitutional or ordinary, passed by the legislature, are referred to the voters for ratification or rejection. In simple words, under this system, certain laws passed by the legislature cannot become effective unless the people approve them by a majority vote. We may say that referendum is the veto power of the

voters. It is a right by the use of which voters may accept or reject a constitution or an ordinary law which has already been passed by the legislature. It is a corrective to the commissions of the legislature.

Referendum is of two types: (*a*) Compulsory; (*b*) Optional. Compulsory or obligatory referendum means that all laws passed by the legislature must be submitted to the vote of the people. It is optional when a law passed by the legislature is referred to the people only on a demand made by a prescribed number of voters

In Switzerland, referendum is compulsory in respect of all constitutional amendments. Every constitutional amendment passed by the Swiss Parliament must be submitted to the popular vote. Optional referendum is applicable to ordinary laws passed by the Swiss Parliament. The Constitution says, "Federal laws and ordinances of general application shall be submitted for acceptance or rejection by the people if a demand (within 90 days of the passage of a federal law) to this effect be made by 30,000 citizens or by 8 cantons". All this means that, ordinarily, a law passed by the Swiss Parliament becomes effective; but, if 30 000 voters or 8 cantons make a demand that a federal law should be referred to the people, it shall be referred to, and will be enforced only when the majority of the Swiss voters accept it.

In all Swiss cantons, compulsory referendum prevails in respect of constitutional amendments. So far as ordinary laws are concerned, the practice is not uniform. In some cantons, an ordinary law passed by the legislature must be referred to the people. In others, the legislative referendum is optional *i.e.*, it is referred to the people only when a specific number of voters make such a demand.

Recall. According to this device, voters can call back an elected member of the legislature, or an elected official, if he does not work to their satisfaction. In some of the states of the U.S.A. this device is used to remove judges elected by the people.

Plebiscite. This device is used to obtain people's opinion on an important political issue or when there is a dispute regarding some territory. The question of accession or secession of territory is generally solved by means of a plebiscite.

[Note. Recall and Plebiscite are not concerned with direct legislation.]

STRENGTH AND WEAKNESS

Are referendum and initiative useful institutions? This is a highly controversial question. There are some writers who say that these institutions play a very important and useful part in advancing the cause of democracy There are others who say that initiative and referendum suffer from certain serious defects, and that their advantages are more apparent than real. The following advantages of initiative and referendum are generally claimed.

1. Initiative and referendum remove the defects of representative democracy, and establish sovereignty of the people in the real sense. Initiative seeks to repair the mistakes of omission of the legislature, referendum repairs the sins of commission of the legisla-

ture. Representative assemblies are not senates of unfailing wisdom. It is wrong to assume that a legislature always truly represents public opinion. Democracy is real only when the people exercise some control over their representatives. Direct legislation makes democracy genuine and effective.

2. Direct democratic devices, initiative and referendum, stimulate political consciousness of the people who start taking an intelligent and keen interest in public affairs

3. Laws passed under this system are readily obeyed by the people.

4. The defects of party system from which representative democracy suffers are removed, to a great extent, by initiative and referendum. The people get opportunity to vote on important laws and serious issues, free from the corrupting influence of political parties. They vote as members of one nation and not as members or supporters of a political party.

5. Direct legislation enable minorities to have some say in the making of laws. Many a time minorities do not get sufficient representation in the legislature. If the system of direct legislation operates in the country, the minorities can pool their votes and influence legislation.

Critics of popular devices put forward the following arguments against them :

1. Law-making is a highly technical and complicated business. It cannot be efficiently performed by voters who are generally ignorant. The introduction of popular devices would result in giving power to ignorance at the cost of knowledge.

2. The sense of responsibility of the legislature is destroyed by direct legislation, especially by referendum. The interest of representatives in the making of laws slackens, for they know that laws made by them be disapproved by voters. Popular devices undermine the prestige and the sense of responsibility of the legislature.

3. Referendum causes delay in enforcing certain laws which need to be promulgated immediately.

4. The system of direct legislation is very costly.

5. Under the system of direct legislation, people develop "electoral fatigue", and the opinion expressed through popular devices is often the opinion of the minority of voters.

6. It is wrong to say that popular device rectify the abuses of party system. It has been seen in practice that political parties and demagogues abuse popular devices. Even votes and signatures are often bought and sold.

7. Legislation involves a good deal of compromise and adjustment but in direct legislation the fate of proposed measures is decided by "yes" or "no". Bills are passed or rejected as a whole. So, compromise and necessary changes are not possible.

There is a good deal of truth in the allegations levelled against direct legislation. The success of popular devices depends upon

firstly, the high standard of education and political consciousness of the people ; secondly, upon the small size of the country ; thirdly, upon the small number and simple nature of the problems facing the country. The system of direct legislation cannot flourish in a large country like India.

POINTS AT A GLANCE

1. Direct legislation means law-making by the people directly.

2. Initiative and referendum are two important methods of direct legislation.

3. Initiative is a device by which a specified number of voters make a proposal for a law for its acceptance by the legislature or by the general voters. It is of two types—formulated and unformulated.

4. Referendum means referring of a law passed by the legislature to the voters for acceptance or rejection.

5. The advantages of direct legislation are :

(i) It makes democracy real ;
(ii) It imparts political education to the people ;
(iii) Laws passed under this system are readily obeyed by the people ;
(iv) The defects of party system are greatly removed by this system, as the people vote not on party lines, but as a nation.
(v) It enables minorities to influence law-making.

6. The defects of this system are :

(i) It results in giving power to ignorance at the cost of knowledge ;
(ii) It destroys the responsibility of the legislature ;
(iii) It causes unnecessary delay in enforcing important laws ;
(iv) The system is costly ;
(v) The opinion expressed by the people through popular devices is generally the opinion of the minority of voters, for people develop electoral fatigue.
(vi) Direct legislation has not been able to rectify the abuses of party system.
(vii) Compromise and necessary changes in proposed measure are not possible.

SUGGESTIVE QUESTIONS

1. Are upper chambers useful ?
2. What are the advantages of the bicameral system of legislature ? Do you think that there is any justification for creating second chambers in the states of the India Union.
3. What are the chief functians of the modern legislature ?
4. Critically examine the advantages of second chambers.
5. "If a second chamber dissents from the first, it is mischievous ; if it agrees with it, it is superfluous." Comment.
6. For a case against a single-chamber legislature.
7. Write an essay on bicameralism.
8. Write a short essay on 'direct legislation.'

CHAPTER XV

ORGANS OF GOVERNMENT (EXECUTIVE)

Outline

Meaning of Executive
Kinds of Executive
Requisites of Efficient Executive
Civil Service

In the preceding chapter, we discussed the legislative branch of government. We dealt with its functions, organisation, etc. Now we shall describe the executive branch of government which is responsible for the enforcement of laws and for general administration.

61. Discuss the meaning, forms and functions of the executive or executive government.

The executive is the second organ of government. Its chief function is to enforce laws, orders, rules, etc., and to carry on the general administration. Laws, as we have seen, are made by the legislature. They are carried into effect by the executive government. It is an important function of the executive to prevent the breaches of laws, and to prosecute law-breakers. The decisions of the judiciary are put into practice by the executive government.

When we say that the executive is the second organ of government, we do not mean that its importance is in any way less than that of the legislature. As a matter of fact, the executive is the main spring of government today. It makes the wheels go round. The legislature does not remain in touch with the complexities of administration, and is too numerous to give vigorous direction to the daily work of government. To insist on the executive as the main spring of government is not to undervalue the legislature. Rather it shows that the legislature must play the important role of acting as a brake on the executive. This is necessary for the maintenance **of democracy and freedom.**

Ordinarily, the terms 'executive' and government are used interchangeably. In fact, the executive is only one branch of government. When we say that Nehru Government has launched the Third Five-Year plan, our reference is to the executive government headed by Prime Minister Nehru. In its broad sense, the term denotes all the State functionaries who are concerned with the execution of laws and the carrying on of the general administration. When used in the narrower sense, the term denotes a small group of persons who, through their positions as heads of the government departments, are in actual command of the various activities of government. The President and his Cabinet, for example, constitute the executive in the United States, while in India the executive consists of the Prime Minister and his colleagues. For convenience of nomenclature we may call them the political executive. The executive in this sense formulates only policies and launches new enterprises. The

term 'Civil Service' or 'Permanent' Servant' is used to indicate those officials who carry out the details of such policies and enterprises. In this question, we are mainly concerned with the executive in the narrow sense.

KINDS OF EXECUTIVE

In some countries a distinction is made between the real executive and the nominal executive. In Britain, government is carried on in the name of the Queen, but the real executive power is exercised by the Cabinet headed by the Prime Minister. The Queen is only the nominal executive. She reigns, but does not rule. When the real executive is responsible to the legislature, it is called parliamentary executive. The Indian executive, for instance, is parliamentary. When the real executive is independent of the control of the legislature, it is called a non-parliamentary executive. The American executive, for example, is non-parliamentary. If the real executive is headed by a single person, as in the United States, the executive is single. In countries having a parliamentary form of executive or government, the Prime Minister is assigned a dominant role. Hence the parliamentary executive is, more or less, a single one. If the executive power is equally shared by several persons, as in Switzerland, the executive is plural. In Switzerland, the executive power is vested in the Federal Council which consists of seven persons. The Chairman of the Federal Council has no overriding powers over other members.

FUNCTIONS OF EXECUTIVE

The functions performed by the executive in a modern State are as under :

Administrative Function. The first important function of the executive is to execute laws. It prevents the breaches of laws ; prosecutes law-breakers before the law courts ; and the sentences passed by the law courts are duly carried out by it.

It is, however, a gross understatement of the functions of the executive to say that it enforces laws. The modern executive pere forms many other jobs which are not the execution of laws. The executive undertakes many activities of public utility and welfare which cannot always be described as the carrying out of laws. There is ordinarily no law requiring the executive to conduct geologicrl surveys, to open research laboratories, to establish experimental farms, and to open schools and hospitals. The executive does aal these jobs because the legislature has granted money for the purposel.

In all these functions, the executive is aided by civil servants, high and low.

Diplomatic Function. The diplomatic function relates to the conduct of foreign affairs. The executive represents the State in its relations with foreign countries. It appoints Ambassadors, High Commissioners, Consuls and other diplomatic representives in foreign lands and 'receives' the diplomatic representatives of other States. The diplomatic function also includes the power to conclude treaties with foreign countries. In the United States the President

has the power to negotiate treaties, but they do not become valid still they are ratified by the Senate. But in India the Constitution does not require treaties to be submitted to Parliament for their ratification. In Britain also, the Cabinet has full power to negotiate and ratify treaties.

Military Function. This function relates to the prosecution of war, and to the organisation of the armed forces of the country. In some countries, the executive also possesses the power to declare war. The President of India, for example, can declare war and conclude peace. In Britain, the power to declare war is exercised by the executive. In the United States, the concurrence of Congress is necessary for the declaration of war. The Constitutions of most States allow the executive to assume enormous power in times of war. The executive can suspend even the fundamental rights of the citizens. The ordinary laws of the land may be suspended and martial law promulgated by the executive in times of war, or even when there is a threat of war.

Legislative Function. In all States, the executive is given certain powers to take part in law-making. In India and in Britain where the parliamentary or cabinet system operates, the executive guides the work of the legislature. It summons and prorogues Parliament. It can dissolve the legislature, and other fresh elections. Most of the Bills are introduced in the legislature and piloted through it by the executive. In countries having the presidential form of government, the executive cannot directly participate in the work of the legislature. In the United States, for example, the President and his Secretaries are not members of the legislature. Nor can they introduce Bills in the legislature. The President can, however, veto Bills passed by the legislature, though the veto power of the President is not absolute.

Financial Function. No government can be run without money. The executive is responsible for the finances of the State. It is its duty to take initiative in obtaining money. The proposals of taxation and expenditure always come from the executive. When the budget is passed, it is the function of the executive to realise taxes from the people, and spend money as sanctioned by the legislature.

Judicial Function. The executive has the power to grant pardon and reprieve. Generally, considerations of clemency prevail in this sphere. Moreover, judges are generally appointed by the executive.

POINTS AT A GLANCE

1. The executive is that organ of government which enforces the will of the people as formulated in laws.

2. The different types of executive are nominal and real executives, parliamentary and presidential executives, and single and plural executives.

3. Functions of the executive are :

(a) Administrative function.

(b) Diplomatic function.

(*c*) *Military function.*
(*d*) *Legislative function.*
(*e*) *Financial function.*
(*f*) *Judicial function.*

62 What are the chief requisites of a properly organised executive in a modern democratic State ? Discuss this question with reference to single and plural executives.

The executive is that branch or organ of government which is concerned with executing or enforcing the will of the people as formulated in laws.

The efficiency of administration depends on the principles on which the executive branch of government is organised.

1. The first principle is unity of organisation. This means that the executive power should be concentrated in the hands of one or a few persons. If there is no unity of organisation, there is likely to be administrative confusion and chaos. The executive will not be able to pursue a unified policy. Nor will it be able to act promptly in times of emergency or national crisis.

2. The executive should hold office long enough to enable it to do justice to its work. If its term of office is short, say one or two years, it cannot take interest in its work. It may become irresponsible. It may not be able to pursue a continuous policy. It cannot plan big schemes, and put them into practice. On the other hand, a very long term is also dangerous. A long term of ten years or so may make the executive corrupt and despotic. The term should, therefore, be neither too long nor too short. A term of 4 or 5 years is quite reasonable.

3. The executive must be given sufficient administrative and discretionary powers so that it may be able to perform its functions efficiently. But the executive must be kept under proper control. It should not be permitted to ignore the wishes of the legislature, or to meddle with the administration of justice, or to deprive people of their rights.

SINGLE AND PLURAL EXECUTIVE

When the executive power is enjoyed by a single person, like the U. S. President, we have a single executive. When the executive authority is equally divided between two rulers, as in ancient Rome, or among a number of persons as in Switzerland, we have a plural executive. The Swiss executive—the Federal Council—is a body of seven persons elected by the legislature. All of them enjoy equal powers. The President of the Swiss Confederation is simply the Chairman of the Federal Council. He does not enjoy any overriding powers.

The functions of the executive are very different from those of the legislature. The legislature is required to discuss every measure thoroughly before it is allowed to become law. That is why we need a good number of persons to perform this function. On the other hand, a good executive is that which can take quick decisions, and act vigorously. The merit of a single executive is that it can act

promptly, and with energy. A single executive can deal with emergencies more efficiently than a plural or collegiate executive. In a plural executive, responsibility is divided. Such an executive lacks unity and energy. Division of executive power leads to mutual rivalry among the various departments. The result is that administration suffers. That is why the plural executive has almost totally disappeared from the world. Switzerland is the only country which has a plural executive. It is true this system is working smoothly there. But the reason for the success of the plural executive in Switzerland is that the Swiss people are politically very sane and advanced. They do not believe in extreme policies. The success is, therefore, due more to the political training of the Swiss than to the inherent strength of the plural system.

A plural executive has one great advantage. It offers greater guarantees against executive tyranny than does a single executive. It is just possible that a single executive, without fear of a rival, may become corrupt, tyrannical and oppressive. A person enjoying all executive powers may try to become a dictator. He may try to deprive the people of their rights and liberties. On the other hand, in the supreme executive power is vested in a council of several members, each member acts as a check on others. The rights of the people cannot be easily encroached upon.

In spite of this advantage, the plural or collegiate executive is not popular. All political thinkers and writers are of the opinion that the final control of administration should rest with a single person.

POINTS AT A GLANCE

1. The qualities or requisites that the executive must possess are :
(a) Unity of organisation.
(b) Reasonably long tenure.
(c) Sufficient administrative and discretionary powers.

2. When the executive power belongs to one person, we have a single executive, but when it is shared by two or more persons, it is called plural or collegiate executive.

3. A single executive can act promptly and can deal with emergencies more efficiently than does a plural executive. A plural executive lacks unity and energy. But the deffect of the single executive is that the person, enjoying executive authority without fear of a rival, becomes despotic. He is likely to deprive people of their rights. A plural executive is, therefore, safe than a single executive.

63. Discuss the comparative merits of parliamentary and presidential executive systems, with special reference to the English and American systems.

[Ans. See answer to question 28].

CIVIL SERVICE

64. What part does the civil service play in the government of a democratic State? Disscuss its position and functions.

Or

Discuss the position and functions of the permanent services in a democratic State. What are the provisions by which they can be made responsive to public opinion?

In every democratic State, the general policy of administration is laid down by the political executive or ministers. But the actual administration of various departments is carried on by a body of administrative officials, who are permanent, paid and skilled. The term 'Civil Service' or 'permanent Services' is used for such officials. Another name for this type of executive is the permanent executive.

Members of the Civil Service generally remain in office till they reach the age of retirement. They have specialised knowledge of their work. They are not amateurs like ministers whose policies they carry out. They get pension on retirement. They are not concerned with party politics. They are expected to serve every party in power in an impartial way.

Members of the Civil Service may be recruited through nomination, or they may be selected through competitive examinations. In India and Great Britain, a series of examinations for the different grades of civil service are conducted by Public Service Commissions. In the United States, the nomination system prevailed. This system suffered from one serious defect. It led to the "Spoils System" according to which administrative officials could be dismissed after new elections. Every new President distributed government jobs among his party supporters. The posts of the Civil Service became rewards for the help given in elections. People were admitted to Civil Service simply because they had rendered some service at the time of elections to the party in power. Merit was not the criterion of any appointment. In 1883, Civil Service Act was passed to do away with political jobbery. Under this Act, a system of competitive examinations was introduced in the United States. But even now the filling of the more important offices is still in the hands of the President. There are about 20,000 posts which are still open to political patronage.

FUNCTIONS

Civil Services play an important role in a democratic State. "The entire business of government is skilled employment", wrote John Stuart Mill in his well-known book '*Representative Government*.' This means that it cannot be undertaken by People who are untrained. Ministers are generally laymen. They are not administrative experts. It is, therefore, very essential that they should act on the advice of permanent, expert administrators. "The best government can be obtained from the co-operation of laymen and skilled bureaucrats (permanent officials), each supplying the deficiencies of the other." Walter Bagehot has rightly put that "success in the art of government depends on a due mixture of special and non-special minds." Ministers cannot understand administrative problems. As a matter of fact, they do not have the time to work out the details of administration. Their job is to lay down general policies of administration, and to take important decisions. Sir George Cornewall

Lewis, who was Chancellor of the Exchequer and Home Secretary in Britain in the 19th century, said: "It is not the business of a Cabinet Minister to work his department. His business is to see that it is properly worked." The chief function of the Civil Service is thus to execute the laws of the State and to carry out the policies of the Government (the political executive). It is not concerned with policy-making. In practice, however, civil servants exercise a considerable influence on the formulation of Government policies. They are, after all, experienced administrators. By presenting facts and offering advice in a clever way, they can easily influence the decisions and policies of ministers who are generally amateurs. In the last analysis, only the civil servants can say whether or not a particular policy will be practicable.

The power of permanent servants has considerably increased these days The reason for this is that the modern State is no longer a 'Police State'. It has now become a 'Welfare State'. Many functions that were performed by individuals in the past, are being performed by the State itself. The outcome of this development is that ministers rely more and more on permanent officials. The increasing influence of bureaucracy (Civil Service) is not in the interest of democracy. Civil Servants are generally narrow-minded. They care much for rigid rules and routine. As their posts are secure, they flout public opinion. As they are out of touch with the people, they cannot understand their difficulties and problems.

It is suggested by Laski that in order to make civil servants responsive to public opinion, each government department should be associated with an advisory body. The advisory body should consist of experts and public men. No department should be allowed to issue any order without first submitting it to the advisory body for comment. Moreover, adequate arrangements should be made for the publicity of orders before they are issued by any department.

POINTS AT A GLANCE

1. Civil Service consists of those permanent officials, high and low, who carry out the details of administration.

2. Civil servants play an important role in democracy. They carry on the day to day administration. The business of government cannot be undertaken by untrained people. As ministers are generally amateurs and they hold temporary offices, the presence of expert permanent administrators is essential to maintain the continuity of administration and to run it efficiently.

3. Civil servants are too much given to routine and rigid rules. They are narrow-minded, and blind to public opinion. Advisory bodies should be attached to each department in order to make irresponsive to public opinion. In this way, we can remove the defects of bureaucracy (rule by permanent officials) in a democracy:

SUGGESTIVE QUESTIONS

1. Distinguish between single and plural executive systems.
2. What do you mean by the term executive? How will you distinguish it from administration?
3. Discuss the importance of civil service in a democracy.

CHAPTER XVI

ORGANS OF GOVERNMENT (JUDICIARY)

Outline

Functions of Judiciary

Organisation of Judiciary

Theories of Punishment

The judiciary is the third organ of government. In a democratic State, it occupies an especially eminent position, and performs important functions. Its main function is to dispense justice. The demand for justice is inherent in man, and this is fulfilled by the judiciary. But we must remember that the judiciary can perform this function truly only when it is 'independent'.

65. What are the functions of the judiciary in a democracy? Explain the expression 'independence of judiciary' and suggest methods by which the judiciary can be made independent. (*V. Important*)

The judiciary is the third organ of government. Though this branch of government does not occupy as prominent a place in political discussions as the other two organs, its importance is in no way less than that of the legislature, or of the executive. According to George Washington, the administration of justice is the firmest pillar of government. To quote Bryce, "There is no better test of the excellence of a government than the efficiency of its judicial system." In the words of Laski, "The men who are to make justice in the courts, the way in which they are to perform their function, the methods by which they are to be chosen, the terms upon which they shall hold power, these and other related problems are at the heart of political philosophy. When we know how a State dispenses justice, we know with some exactness the moral character to which it can pretend."

FUNCTIONS

1. The basic function of the judiciary is to hear and decide disputes. By doing this, it protects the rights and liberties of the people, and punishes those who are found guilty under the law. It is thus the guardian of the rights of the people, and is the shield of innocence. It protects an individual both against the executive and the other individuals in society. If the judiciary is not efficient and honest, the rights and liberties of the people will always be in danger. If there is any defect and delay in the administration of justice, life, liberty and property of the people are bound to suffer.

2. The judiciary helps in the growth of laws. When a law is not clear, the judiciary has to interpret it and fix its meaning. Sometimes, a law is silent on a particular point. In that case the judge, guided by his own commonsense, tries to arrive at a fair judgment. The decision of the judiciary becomes precedent which is as good as law power. It is thus that a 'case law' or 'judge-made' law comes into existence. Judicial interpretation of laws contri-

butes a good deal to their growth. Thus, the judiciary makes laws to a limited extent.

3. In federations, like India and America, courts act as the guardian of the Constitution. They declare a law or an executive act to be unconstitutional or *ultra vires* if it is not in tune with the Constitution. This is called the power of judicial review.

4. Sometimes, the judiciary gives advice or opinion at the request of the legislature, or of the executive on some matter of public importance. In India, the President can seek the advice of the Supreme Court on any matter of great public importance.

5. The judiciary often performs functions which are not strictly judicial in nature, such as appointing certain officials, administering estates, appointing receivers for bankrupt business, issuing injunctions, etc.

INDEPENDENCE OF JUDICIARY

Efficient administration of justice is not possible unless judges possess a sound knowledge of law, and enjoy independence. What does the expression "independence of the judiciary" mean? It means that judges should be able to perform their functions without fear or favour. They must be impartial and must be protected from political influence or other pressures which might affect their decisions. "Justice must not only be done, but must manifestly and undoubtedly seem to be done."

The importance of the independence of the judiciary requires no explanation. Rights and liberties of the people can be safe only when judges perform their duties in an independent and impartial way. The judiciary must be independent, honest and above corruption.

In almost all democratic States, the Constitution makes at least the higher judicial authorities independent. But in dictatorships, judges have no independence. They are almost all party nominees, and are expected to give their decisions according to the wishes of the party bosses. Their primary function is not to judge according to law and justice, but rather to advance the ends of the ruling group.

The independence of the judiciary depends upon the following factors :

1. Method of Appointment. Independence of the judiciary depends a good deal on how a judge is appointed.

(*a*) Popular Election. In some countries, judges are elected by the people. In the American States, for example, a large number of judges are elected. The practice of electing judges is regarded as democratic, but this method suffers from some serious defects. Ordinary people are not qualified to choose the right type of persons. There is every possibility that person having superior judicial knowledge may be defeated at the elections, and persons of inferior calibre many be elected. Moreover, in modern States election means election on party lines. A judge, who is elected on party lines, and who depends on party leaders for his re-election, cannot enjoy

independence. It is difficult to imagine a worse system than the election of judges by popular ballot.

(*b*) **Election by the Legislature.** In some States, judges are elected by the legislature. For example, the judges of the Swiss Federal Court are elected by the Swiss Parliament. The judges of the Supreme Court of the Soviet Union are elected by the Supreme Soviet (the legislature) of the Soviet Union. This method also is unsatisfactory. Modern legislatures are organised on party lines. So judges will naturally be elected by the legislature according to political considerations. Judges so elected cannot be independent. It is a well-known fact that although the judges of the Supreme Court of the Soviet Union are formally elected by the Supreme Soviet, they are the choice of the bosses of the Communist Party of the Soviet Union. They never act independently. They simply carry out the orders of the party leaders in the administration of justice.

(*c*) **Appointment by the Executive Head.** This is a better method than the first two, and is quite common. Most of the modern States adopt this method for the appointment of judges. The executive is placed in a better position to assess the personal qualities necessary for the judicial office. It can also seek expert advice and lay down necessary qualifications. In India, for example, the Supreme Court and High Court judges are appointed by the President on the recommendation of other judges including the Chief Justice of India. Other judges in the states are recruited through the agency of the Public Service Commission.

2. **Long Tenure.** A judge should be appointed for a long period. Short-term appointments are not conducive to the independence of the judiciary. If a judge is appointed for a short period, he is likely to oblige the appointing authority in order to secure his re-appointment. The general rule regarding the tenure of judges is that a judge should hold office during good behaviour. This means that he should be allowed to continue in office as long as he does not misbehave.

3. **Security of Office.** Security of office is one of the important factors that contribute to the independence of the judiciary. If the tenure of service of a judge depends upon the sweet will of a particular person, he cannot remain independent. He will always be anxious to win the favour of the person who has the power to dismiss him. To give a judge the courage and the firmness to do his duty without fear or favour, the process of removing him from office must be made difficult. In England, judges can be removed (but seldom are) from office only on a joint address presented to the Crown by Parliament. In America, the judges of the Supreme Court are appointed by the President with the approval of the Senate But the President does not possess the power to dismiss a judge. He can be removed from office only through impeachment. In India, the President can remove a judge of the Supreme Court or of a High Court only when an address is presented to him by each House of Parliament. A special majority is required for the presentation of such an address. Moreover, removal must be determined on the grounds of "proved" misbehaviour or insanity.

4. **Salaries of Judges.** Judges must be given handsome salaries so that they may be able to maintain a good standard of living. Low-paid judges can be easily bribed. In India, the Chief Justice gets Rs. 5,000 a month and other judges of the Supreme Court receive a monthly, salary of Rs. 4,000. Besides, every judge of the Supreme Court is given a rent-free residence. The salary, allowances and other privileges of the judges cannot be altered to their disadvantage during their term of office.

5. **Separation of Executive and Judicial Personnel.** The same person must not be allowed to possess both executive and judicial powers. If the prosecutor is also the judge, people cannot expect justice from him. It is felt that, in this respect, India is still behind other advanced democratic countries. At the district level, the judicial and executive functions have not yet been separated. The District Magistrate exercises both executive and judicial powers.

One more point may be mentioned in connection with the independence of the judiciary. Constitutional provisions and arrangements mentioned above are not enough to make judges independent. In the last resort, justice depends on the conscience of judges, and this can never be completely guaranteed The judiciary should be independent-minded and well able to look after itself. Paper guarantees provided by the Constitution are useless unless judges are themselves fearless and independent, and the executive is also prepared to respect these guarantees. The judiciary must display that sturdy sense of independence and courage which makes a judge uphold the law and do his duty in scorn of consequence; and the executive authority should always gracefully accept the implications of the constitutional independence of the judiciary. The executive must not feel upset at being told by judges that it is abusing its powers and illegally trespassing the rights and liberties of the individuals. Unless the constitutional independence of the judiciary is implemented in practice by a courageous judiciary and a law-abiding executive, the letter of the Constitution will remain and the spirit which giveth life will vanish.

POINTS AT A GLANCE

1. The expression "independence of the judiciary" means that judges should be able to perform their duties without fear or favour.

2. The independence of the judiciary depends upon the following factors:

(a) *A judge should not be appointed by the legislature. Nor should he be elected by the people. At the higher level, judges should be appointed by the executive on the recommendation of a Committee or Bench of judges. by the Public Service Commission.*

(b) *The term of office of a judge should be long.*

(c) *He must enjoy security of office. This means that the procedure of his removal should be a difficult one.*

(d) *He must be paid a handsome salary so that he may be able to maintain the dignity of his office.*

(e) *Executive and judicial powers must not be concentrated in the same hands.*

(f) *Judges should themselves display courage and fearlessness in performing their duties.*

66. Write a short note on the organisation of the judiciary.

In the modern States, the courts are generally organised on a hierachical basis (*i.e.*, courts one above the other). Appeals against the decisions of the lower courts can be taken to the higher courts.

In most of the States, the judicial work is divided into two parts. Civil cases are dealt with by one set of courts. Such courts are called civil courts. Disputes over loans, contracts, wills, etc., are civil cases. Criminal cases are handled by another set of courts—criminal courts. Criminal cases involve punishable offences against person or property such as theft, assault, murder, treason and so on. The highest court is the final court of appeal in both types of suits. It enjoys the power of final decision.

Special courts such as military courts, industrial courts, etc., are also set up to handle special type of cases. In France and other European countries, there are special courts called administrative courts. They are set up to try government servants when they commit illegal acts in discharging public duties. They cannot be tried in ordinary courts. In England, America, India, etc., the system of regular administrative courts does not exist. Disputes between public servants and private citizens there are handled by the same set of courts.

Again, in federations there is generally a double chain of courts—the federal courts and the state courts. In America, for example, there are federal courts with the Supreme Court at the head. The states have their own judicial organisations. The state courts deal with cases involving state laws. In India, however, we have single unified judiciary for the whole Union.

In many democratic countries, the jury system is used in dealing with serious criminal cases. Jury means a body of persons who help judge in finding out the truth of a case.

Difference of judicial organisations between Anglo-Saxon countries and Continental Europe. In Anglo-Saxon countries, like England and America, the courts with the exception of the higher courts, are presided over by one judge only. But in France and other European countries, a court is presided over by a college of judges *i.e.*, by several judges. In France, for example, at least three judges can deliver a judgment. It is believed there that a college of judges affords better protection against arbitrary exercise of judicial power. But this must be admitted that the continental system is very expensive.

One more point between the two systems may be noted. In Anglo-Saxon countries judges go on circuit, that is, they travel from town to town to try law cases. This is done for the convenience of the litigants. It saves their expenses also. In France and other continental countries, the courts are localised. They do not move out of their fixed places. The litigants have to take their cases to a specified place where the court sits. This means more inconvenience and expense for the litigants.

POINTS AT A GLANCE

The following points may be noted regarding the organisation of the judiciary :

1. The courts are generally organised hierachically.

2. There are two kinds of courts—civil and criminal courts.

3. Special courts are also set up. In France and other continental countries, administrative courts are set up to try public servants.

4. In a federation, there is generally a double chain of courts.

5. In most of the democratic countries, the system of jury is employed in handling serious criminal cases.

6. In Anglo-Saxon countries, a court is presided over by a single judge. Further, judges go on circuit. In continental Europe, a court is presided over by several judges. Moreover, courts are localised.

67. Discuss the main theories of punishment.

Or

What are the main considerations which should govern the mode of punishment ?

Crime has been in existence since very early times. Law and order cannot be maintained, and the safety of life and property cannot be ensured, unless breaches of order are suitably punished and criminals are effectively brought to book. It is the duty of the State to punish criminals. Society can make progress only when anti-social elements are suitably punished by the State. The following are the main theories of punishment :—

1. **Theory of Retribution.** The retribution theory is very old, and is based upon a strong human instinct of revenge. The wrong-doer must be given "tit for tat." The principle should be an "eye for an eye" and a tooth for a tooth". The State, while awarding punishment, should take into consideration the magnitude of the offence.

The theory cannot be accepted because if it is followed in all cases it becomes unjust as many cases of crime are without much fault on the part of the offenders.

2. Deterrent Theory. According to this theory, punishment is given for the purpose not of preventing the wrong-doer from doing wrong a second time but also to make him an example for other persons with criminal tendencies. In the words of a famous judge, the theory is, "I don't punish you for stealing the sheep, but

so that sheep may not be stolen." Thus the aim of punishment is not revenge but terror.

But the history of criminal law shows the ineffectiveness of punishment as a deterrent. Even if the severest punishment exists, crimes continue to be committed. For example, in the time of Queen Elizabeth, the punishment for picking pocket was death and yet the preamble of an Act of her reign states that the pick-pockets were to be seen busy in their work amongst the crowds who gathered to watch the execution of condemned pick-pockets. Many more examples may be cited to prove the inability of punishment to deter and check people from committing the same crimes. The fact is that it has been found at many places that, with the increase in the severity of punishment, crimes have also increased.

A very important objection to the deterrent theory is that excessive harshness of punishment tends to defeat its own purpose by arousing the sympathy of the public towards those who come before the criminal courts. Moreover, the theory is ethically unjustifiable. It treats the criminal as a means and not as an end.

3. **Reformative Theory.** According to this theory, the aim of punishment is neither revenge nor deterrence, but reformation of offenders. The State should try to reform the character of a criminal so that he may become a good citizen of the State. Supporters of this theory hold that crime is a pathological phenomenon, that a criminal is a diseased person. He should be treated in the same way as other patients are treated. Advocates of this theory want to abolish jails and substitute for them reformatories, hospitals and asylums.

This theory is a great advance on the other theories. It shows the humane tendencies of the modern age. But this view cannot be accepted *in toto*. All criminals cannot be regarded as 'patients.'

A true theory of punishment should reconcile the various aspects emphasized by the three theories given above. A hardened criminal and a person who has committed a serious crime deliberately, should be awarded severe punishment (retributory theory). Moreover, the aim of the State should be to associate sufficient terror with the thought of crime to prevent anti-social activities in the future (deterrent theory). Prior to awarding punishment a judge must thoroughly study the character and the age of the offender, his early breeding, his environments, the cirumstances in which he committed the crime, and such other factors. Childern should be sympathetically treated. They should not be kept in prison along with confirmed criminals (reformative theory).

POINTS AT A GLANCE

The following are the main theories of punishment :—

1. Retributive theory. It is based on revenge. It expects the State to inflict punishment on the criminal according to the magnitude of the crime.

2. Deterrent theory. According to this theory, the aim of punishment is to deter others from committing similar offences.

3. *Reformatory theory. According to this theory, the purpose of punishment is to reform the offender himself.*

4. *A good theory of punishment should reconcile the various aspects emphasized by the three theories given above.*

SUGGESTIVE QUESTIONS

What do you understand by the expression "Independence of the judiciary"? Why is it necessary to make judiciary independent? What means are necessary for the purpose?

2. Discuss the merits and demerits of the different methods of appointing judges.

3. "There is no better test of the excellence of government than the efficiency of its judicial system". Explain and discuss the functions of the judiciary in a modern State.

4. What do you understand by the expression, "Power of Judicial Review"?

[Hint: The power of judicial review means the power of judiciary or courts to declare a law null and void on the ground of its conflict with some provision of the Constitution. For example, the Supreme Court of America has the power to declare federal and state laws to be invalid if they clash with the Constitution. Such laws cannot be enforced. The Supreme Court acts as the guardian of the Constitution. The Supreme Court of India also enjoys the power of judicial review. The British judiciary does not exercise this power. The British Parliament is a sovereign body. It can make or repeal any law it likes. The courts cannot challenge the validity of laws passed by it. Their only job is to interpret laws and apply them to individual cases. In Britain, no distinction is drawn between ordinary and constitutional laws. The British courts can, however, declare executive acts or orders to be invalid if they are not supported by parliamentary statutes. In a federation, the judiciary has the power of judicial review, although this practice is not universal. In the Soviet Union, for example, the Supreme Court does not possess the power to declare a law *ultra vires i.e.* unconstitutional].

CHAPTER XVII

THEORY OF SEPARATION OF POWERS

Outline

Statement of the Theory

Defects of the Theory

Relation between the Three Organs

So far we have dealt with the functions of the three organs of government. We shall now discuss a very important question—the question of relationship between the various organs of government. In this connection, we shall first take up the theory of separation of powers.

68. "Strict separation of powers is not only impracticable as a working principle of government, but it is not one to be desired in practice." Discuss.

Or

"While the principle of separation of powers is generally admitted as valid, practical difficulties experienced in its working make it of little value today." Explain clearly what you understand by the theory of "separation of powers" as stated by Montesquieu and show what the practical difficulties are in working it. (*V. Important*)

Government exercises three kinds of power—the legislative, the executive and the judicial—and corresponding to these, there are three organs : the legislature, the executive and the judiciary. The legislature makes laws, the executive enforces them, and the judiciary decides particular disputes in the light of those laws.

It is suggested by some political thinkers that each power or function should be allocated to a single, separate organ exclusively. There should be no concentration of power. Why ? Because that would result in abuse, tyranny and loss of liberty. The legislature should never exercise the executive and judicial powers, or either of them ; the executive should never exercise the legislative and judicial powers, or either of them ; the judiciary should never exercise the legislative and executive powers, or either of them. All the three organs must restrict themselves to their respective spheres, and each organ should be free from the influence or control of the remaining two organs. This line of thought is known as the theory of separation of powers.

Montesquieu, a French writer of the mid-eighteenth century, was the chief advocate of this theory. He argued in his "Spirit of the Laws" that there could be no liberty for the people if any two of the three powers were exercised by one and the same person or body of persons. He said when the legislative or executive powers were combined in the same person or persons, there could be no liberty because such person or persons could tyrannize over others. They could make tyrannical laws and execute them in a tyrranical

manner. The result would be the same if either executive and judicial, or legislative and judicial powers were joined in the hands of the same person or persons. And, if all the three powers were allocated to the same person or body of persons, there would be an end of everything.

Montesquieu's theory was supported by many 18th century jurists including the great English jurist, Blackstone.

INFLUENCE OF THE THEORY

The theory of separation of powers had a great influence on the political thought those days. The fathers of the American Constitution (framed in 1787) were very much influenced by this theory. They accepted this theory as the basis of the federal Constitution. The presidential form of government in the U.S.A. is the direct result of the theory of separation of powers. This theory influenced the revolutionaries of France also. The French Constitution framed just after the Revolution of 1789 put the theory of separation of powers into practice by making the executive and the legislature practically independent of each other and by creating an elective judiciary.

COMMENTS

The theory of separation of powers in the extreme form has been criticised on the following grounds :

1. A complete separation of powers would lead to frequent deadlocks because each organ anxious to safeguard its own interests and powers, would not extend any assistance or co-operation to the other organs. Rigid separation of powers would lead to jealousy impairing the efficiency of the different organs of government. Good government demands that the different organs must co-operate with one another, particularly there should exist a harmonious relationship between the executive and the legislature. It is the executive which can understand the needs of the people. The legislature should always make laws on the advice of the executive. A complete separation of powers is, therefore, undesirable.

2. Moreover, an absolute separation of powers is *impossible.* Government is an organic whole. The three organs are interdependent. The system of complete separation of powers must fail in practice. Every organ has to participate in the work of others. For example, the executive is required to perform some legislative functions at least in times of emergency, or when the legislature is not in session. If an emergency arises in the country, the executive has to pass a law to meet it. It cannot sit idle and see chaos in society. Similarly, it becomes necessary for the legislature to interfere in the executive sphere when the administrative measures affect basic principles. Again, a judge cannot help making additions to laws in the process of interpreting them.

That a complete separation of powers is impossible is clear from the fact that it does not exist in any modern State ; even in America, the doctrine could not be adopted *in toto.* It is true that the U. S. President and his secretaries are not members of the legislature. But it does not mean that the President has no authority

in legislative matters or that Congress (the legislature) is not concerned with administration. The Constitution has put many restrictions on the principle of separation of powers. The President has power to veto Bills passed by Congress, and this veto kills the Bill unless it is passed again by each House of Congress by a two-thirds majority. On the other hand, the Senate, the upper chamber of Congress, confirms certain executive appointments made by the President. Again, the President appoints the judges of the Supreme Court with the consent of the Senate. The Supreme Court has the power to decide whether or not legislative and executive acts are *ultra vires*. So we find that in America there is no complete separation of powers. The same is the case with other democratic States. In Britain, members of the Cabinet are also members of the legislature. They are in fact the leaders of Parliament. The House of Lords is the highest court of appeal. Again, the position of the Lord Chancellor makes it very clear that there is no complete separation of powers in Britain. He is a member of the Cabinet as well as of the House of Lords, and is the head of the judiciary. In France also, there is no complete separation of powers. The Cabinet system of France is opposed to the theory of rigid separation of powers. In short, there is not a single modern State where the three organs heve been separate.

3. Advocates of this theory perhaps believe that liberty depends on separation of powers alone. This is, however, contradicted by facts. The British people enjoy the maximum of liberty, and still there is no strict separation of powers in Britain. Liberty, does not depend on rigid separation of powers. Even when the three organs are isolated from one another, there may not be any liberty for the people. If the legislature passes an oppressive law, the executive will have to enforce it, and the judiciary will have to apply it to particular cases. The fact is that liberty is primarily concerned with the spirit of the people. If the people are freedom-loving and are vigilant, no government can deprive them of their rights and liberties.

4. The theory assumes that all the three organs of government are of equal importance. But it is not so. The legislature is the most important organ of government in a democracy. It expresses the will of the people in the form of laws which the judiciary interprets and the executive enforces. "The very nature of government is superior to the executive and the judiciary." Moreover, the legislature exercises control over the finances of a country, and as such it has to control the executive and the judiciary.

5. A strict adherence to the theory has produced serious evils. In certain states of the United States, the people themselves elect judges to make them independent of the legislature and of the executive. But judges should not be elected by the people. Ordinary people do not have the ability to elect the right sort of person—a person who has the necessary qualifications to become a judge.

To sum up, the theory of separation of powers cannot be accepted in its rigid form. But we have to say nothing against it if it

is interpreted in a broad way. There should not be any concentration of powers, for this will lead to the destruction of the liberty of the people. In dictatorships, all the three powers are concentrated in the hands of one person or a few persons. The legislative, the executive and the judicial powers should be allocated to three distinct organs. Moreover, no one department should have complete control over the other two. Particularly, the judiciary, as far as possible, should be made independent of the executive and of the legislature. Some amount of distinction must be maintained between the three organs of government to derive the benefits of the division of labour, and also to maintain freedom.

POINTS AT A GLANCE

1. Theory of separation of powers implies that it is essential for the liberty of citizens that the three organs of government—the legislature, the executive and the judiciary—should be completely isolated from one another. Montesquieu was the chief advocate of this theory.

2. The theory in its rigid form has been criticised on the following grounds :

(a) *Rigid separation of powers is not desirable because it leads to deadlocks between the various organs of government.*

(b) *Strict separation of powers is impossible in practice.*

(c) *Liberty does not depend on strict separation of powers.*

(d) *The theory assumes that the three organs of the government should have equal powers, which is wrong.*

(e) *The theory is dangerous and harmful.*

3. Some separation of powers is, however, essential. Legislative, executive and judicial functions must be performed by different sets of people, and no one organ of government should have complete control over the others.

69. What are 'Checks and Balances'? Are they the same thing as Separation of Powers ? (*Important*)

The concept of separation of powers is a basic one in modern governments, particularly in democratic States. The central idea of this concept or theory is that the same person or persons should not pass laws, enforce them and pass judgment on persons accused of violating them. The legislative, the executive and the judicial functions should be exercised by different bodies of persons, and these bodies should be independent of one another. The legislature should only make laws, and do nothing else. It should never execute its laws, nor adjudicate. The executive should never make laws, nor exercise judicial powers. Similarly, the judiciary should not participate in law-making and in the execution of laws. It should confine itself to adjudication only.

It is, however, neither, possible nor desirable to attempt rigid separation of powers. Government is after all an organic whole, and any attempt to bring about complete separation of the legislative,

executive and judicial functions is bound to paralyse the governmental machinery. The basis of the theory that the concentration of governmental power in the hands of a few should be prevented is, no doubt, correct. But this purpose cannot be achieved by effecting a complete separation of the legislative executive and judicial functions. Even if the three organs of government are completely separated from one another, they can individually abuse powers. Inter-dependence of the organs of government to a certain extent is both desirable and indispensable.

The correct approach to the problem is that the governmental machinery should be based on a system of 'checks and balances'. According to this system or doctrine, separation of powers should be maintained, but at the same time each organ of government should check the other and be placed in such a position that it is able to maintain the balance or equilibrium of the governmental machinery.

The American Constitution is really based on the doctrine of 'checks and balances'. The American Senate has been authorised to share the President's power to make treaties and appointments. The President possesses the power to recommend and to veto legislation, The Supreme Court not only interprets laws and applies them to particular cases, but may declare legislation unconstitutional. This sort of arrangement means that the executive shares in legislation, the legislature participates in such clearly executive functions as appointments and foreign relations, while the Supreme Court, by declaring laws *ultra vires*, in fact, shares in legislation. However, in spite of this mutual interference, the basic idea of separation is maintained. Subject to limitations imposed by the Constitution, each organ of government jealousy guards its sphere of power against the slightest hint of encroachment by the other organs.

Apparently, the doctrine of 'checks and balances' is the negation of the theory of separation of powers, but in fact it is indispensable to it. It supplements the idea of separation of powers, and is a corollary to it. It combines the theroetical advantages (prevention of concentration of powers in the hands of a few) with the considerations of the efficient working of the governmental machine.

70. Discuss the case for and against separation of (*a*) the executive from the legislature ; (*b*) the judiciary from the executive.

Separation of Executive from Legislature It is said by some writers that the legislative and the executive powers must be enjoyed by different organs of government, and that they should not have any contact with each other. Each organ must be free from the influence and control of the other. It is argued by them that if the legislative and executive powers are combined in the same person or agency, there can be no public liberty because the same person or agency would make oppressive laws to execute them in a tyrannical manner. "Whenever the right of making and enforcing the law is vested in the same person or one and the same body of persons, there can be no public liberty." (Blackstone).

The view expressed above is true in a limited sense. There will be no public liberty if the *whole* power of one branch is exercised by the same people who possess the *whole* power of another branch. There should be two distict legislative and executive branches or organs. But to say that they should be completely separated from each other is not correct. It is not desirable to separate the executive from the legislature completely. Absolute separation between the legislature and the executive will lead to deadlocks and conflicts between the two. In the interest of governmental efficiency it is necessary that the executive should possess the right to bring before the legislature necessary measures. It is the executive which can understand the real difficulties of the people. It is, therefore, essential that the legislature should make laws on the advice of the executive.

The legislature should also have the power to supervise and control the executive to ensure proper execution of laws passed by it. What is needed is not absolute separation of executive from the legislature but co-ordination and cooperation between these two important organs of government.

Moreover, complete separation of the executive from the legislature is not possible. Government is an organic whole. The two organs of government cannot be divided into water-tight compartments. The different organs or branches of government are so much interdependent that there is bound to be some over-lapping of functions. For example, the executive has to make laws at least in times of emergency, or when the legislature is not in session. Absolute separation of the executive from the legislature will be unnatural. The whole governmental machinery will be paralysed. Any attempt to separate them entirely will definitely fail. If we study the Constitutions of the various modern States of the world, we will find that complete separation of the executive from the legislature does not exist anywhere. Even in the United States where the farmers of the Constitution tried to isolate the executive from the legislature, absolute separation does not exist. This shows that complete separation of the executive from the legislature is not possible.

Further, the idea of complete separation of the executive from the legislature is based upon the assumption that both these organs are of equal importance. But this is not true. The legislature expresses the will of the people in the form of laws. It has control over public money which is spent by the executive. It is, therefore, necessary that the legislature should supervise and control the policies and actions of the executive.

Separation of Judiciary from Executive. It has been suggested that the judiciary should be completely separated from the executive. If the judicial organ is made subordinate to the executive, the judge will not be able to administer justice without fear or favour. Moreover, if the judicial and executive powers are given to the same person, that person might behave in a tyrannical manner.

This view is correct to a great extent. Judicial and executive functions should not be combined in the same person or body of

persons. Nor should the judiciary as a whole be made subservient to the executive. The tenure of the judiciary should not depend on the pleasure and whims of the executive. If a judge knows that he can be dismissed any time by the executive, he cannot dispense justice without fear or favour. But this does not mean that the judiciary should be completely separated from the executive. Absolute separation of the judiciary is not desirable. If we adhere to the principle of separation of the judiciary from the executive too rigidly, the executive will not be able to appoint judges. They will be elected by the people. This system suffers from serious drawbacks. Election of judges by the people means election on party lines. Ordinary people cannot distinguish between a good person and a bad person. An elected judge cannot remain impartial and independent.

POINTS AT A GLANCE

1. **Separation of the executive from the legislature.** *It is essential for the liberty of the people that there should be two distinct legislative and executive organs.*

2. *But complete separation of the executive from the legislature is neither possible nor desirable. Nor does liberty depend upon complete isolation of these two organs.*

3. **Separation of the judiciary from the executive.** *The judicial organ should not be subordinate to the executive. Nor should the executive and judicial functions be combined in the same person or body of persons.*

4. *But this does not mean that there should be no relation between the executive and the judiciary. Rigid separation of the judiciary from the executive will lead to the election of judges by the people. The system of electing judges is very harmful.*

71. What exactly is the relation between (*a*) the Legislature and the Executive ; (*b*) the Executive and the Judiciary ; (*c*) the Legislature and the Judiciary ?

Legislature and Executive. There can be no absolute separation between the legislature and the executive, and the relation between the two is not one of antagonism but of cooperation and harmony.

We know that modern representative democracies are usually parliamentary or presidential. In the parliamentary form of government, the executive has the authority to summon, prorogue and dissolve the legislature. In England, the Queen can dissolve the House of Commons on the advice of the Cabinet. In India, the President has the power to dissolve the Lok Sabha on the advice of the Cabinet. Ministers are members of the legislature, and they can initiate any Bill they like and see it is passed by the legislature. Money Bills are always introduced by Ministers. On the other hand, the legislature can turn out the Cabinet if it does not like its policies and actions. It can ask explanation for governmental actions and compel Ministers to follow a particular policy.

In the presidential form of government, the President and his secretaries are not member of the legislature. They cannot introduce Bill in it. Nor can the legislature pass a vote of no confidence in them. But this does not mean that no relationship exists between the two organs. In the United States, the Constitution itself has provided for cooperation between the executive and the legislature. The U. S. President has the right of sending messages. In such messages he reviews the affairs of the Union and recommends legislative measures to the legislature. He has also the right to veto Bills that he considers hasty and harmful. His veto can be overridden only if the Bill is passed again by a two-thirds majority in each chamber of Congress. It is not an easy thing to secure a two-thirds majority. The President's control over legislation is, therefore, not inconsiderable. On the other side of the picture, we find that the Senate, the upper chamber of Congress, has the power of ratifying treaties and appointments made by the President. Congress can control the President through its power of impeachment. Further, the legislature has control over public money. Through this control it can easily influence the policies of the President.

Thus we find that an intimate relation exists between the legislative and executive organs of government in modern democracies. This cooperation between them leads to the efficiency of government as a whole.

Executive and Judiciary. The most important point regarding the relationship between the executive and the judiciary is that the judiciary should be made as much independent of the executive as possible. Complete separation between the two is neither possible nor desirable. The executive is generally given two powers in relation to the judiciary. The first is the power of appointing judges. In most of the democratic countries, judges are appointed by the executive, although it is not given the power to dismiss them. The second power of the executive in relation to the judiciary is the power of pardon and reprieve.

On the other hand, the judiciary is generally given the power of reviewing the acts of the executive.

Legislature and Judiciary. In almost all democratic States, the judiciary is made independent of the legislature. The legislature is not allowed to elect judges, because this method drags a judge into party-politics, and it becomes difficult for him to remain independent and impartial. But the legislature is usually given the power of recommending the removal of judges. In England, judges can be removed from office only on a joint address presented to the Queen by both Houses of Parliament. In the United States, judges can be removed from office only by impeachment. This power of the legislature is an ultimate safeguard against a judge who is corrupt.

On the other hand, in federal countries, the judiciary has the power of declaring a law passed by the legislature to be *ultra vires* if it violates the Constitution. In a unitary State, the judiciary does not have this powers.

POINTS AT A GLANCE

1 **Legislature and Executive.** *These two organs should always work in cooperation and harmony. There can be no absolute separation between them. In a parliamentary form of government, the relation between the two is very intimate. Even in a presidential system, both these organs influence each other in various ways.*

2. **Executive and Judiciary.** *The judiciary should be made as much independent of the executive as possible. The executive is generally given two powers in relation to 'the judiciary—the power of oppointing judges, and the power of pardon and reprieve. On the other hand, the judiciary is given the power of reviewing the acts of the executive.*

3. **Judiciary and Legislature.** *Both these ovgans are kept as separate as possible. The legislature is generally given the power of recommanding the removal of corrupt judges. On the other hand, the judiciary in federal countries has the power of declaring laws of the legislature to be* ultra vires *if they go against the provisions of the* **Constitution.**

SUGGESTIVE QUESTIONS

1. Explain the theory of separation of powers. In what sense and under what limitations is this theory true? Is absolute separation of powers necessary to secure the liberty of the individual?

2. How far has the theory of separation of powers been translated into America and in India?

3. Discuss carefully the relationship between the executive and the judiciary.

CHAPTER XVIII

THE ELECTORATE AND REPRESENTATION

Outline

- Meaning of franchise
- Universal adult franchise
- Women suffrage
- Direct and indirect elections
- Minority representation
- Functional representation

As we have already pointed out, modern democracy is of indirect type. Under this system, voters do not directly participate in law-making. They elect their represe ntives who work on their behalf. The system of representation is thus indispensable in a democratic form of government. In this chapter, we shall study the various forms of representation.

17. What do you understand by the terms 'franchise' and 'electorate'. Give your arguments for and against universal adult franchise.

Modern democracy is of indirect or representative typet Citizens today do not participate directly in law-making. In ancient. Greece and Rome, there was direct democracy. Since there were city-States, it was possible for the people to assemble at a particular place to frame laws and to discuss the affairs of the State. But today we have territorial States comprising huge populations. It is simply impossible for all the people to meet together and participate directly in law-making. The people, therefore, elect a fixed number of representatives who make laws on their behalf. In some States. however, representative democracy has been combined with a system of direct legislation. Initiative and referendum are the modern devices of direct legislation.

MEANING OF FRANCHISE AND ELECTORATE

The right to vote is called franchise or suffrage. All persons who are eligible, in accordance with the law of the State, to elect their representatives, are collectively called the electorate. In other words, the body of voters taken as a whole is called the electorate.

There was a time when the franchise or the right of voting was the privilege of a small minority. Many restrictions were imposed on the exercise of the vote. A common qualification was the possession of a certain amount of property or payment of a specified amount of tax. It was argued that persons who had no stake could have no right to vote. Women were also deprived of the right to vote. It was argued that if a woman entered politics, family life would suffer.

MEANING OF UNIVERSAL FRANCHISE

With the progress of democratic ideas, the qualifications such as payment of taxes, ownership of property, literacy, etc., have been abolished in most of the democratic States. The general tendency is that every adult, male or female, should have the right to vote. This is called the system of universal franchise. In almost every

democratic State, an adult citizen now enjoys the right to vote. The usual qualifying age is twenty-one. In Soviet Russia, a person of the age of eighteen has the right to vote. It must be remembered that universal suffrage does not imply that all adults without exception can exercise the right of voting. Lunatics, criminals bankrupts, paupers and aliens are generally denied the right to vote. Lunatics do not possess reason and judgment. They cannot, therefore, exercise their right properly. Criminals have perverted mentality, and are likely to use their voting power in an undesirable manner. Bankrupts and paupers may sell their votes. Aliens may use their right carelessly, for they have no interest in the welfare of the country.

MERITS AND DEMERITS OF THE SYSTEM

The principle of universal adult franchise is an essential feature of modern democracy, but that was not always so. As stated above, franchise was once very much restricted. The right to vote was dependent on certain qualifications such as property, payment of tax, education, sex, etc. The principle of universal adult franchise has been achieved after a long struggle. Even some democrats opposed the principle of universal franchise. J. S. Mills, for example, opposed universal adult franchise on the ground that it would mean the rule by ignorant masses. He said, "Universal teaching must precede universal enfranchisement." This principle of universal adult franchise is generally opposed on the following grounds :

First, persons who do not pay taxes or who have no property should not be allowed to enjoy the right to vote because they have no stake in the country. They will, therefore, lose nothing by choosing undesirable representatives. They may not use their vote prudently.

Secondly, ignorant masses must not be enfranchised because that would mean the rule by ignorance. Illiterate people are unable to choose the right type of representatives. Hence the right to vote should be granted only to those persons who possess some education.

Universal adult franchise has been defended on the following grounds :

1. Experience shows that to limit suffrage to those who pay taxes, or who have property, means in practice that government is run in the interest of the rich people only. Government becomes an instrument of exploitation in the hands of the rich. The poor people have every stake in the country. They will not be able to improve their lot if they are denied the right to vote. Poverty is not a sin. There is no reason why the poor people be deprived of the right to vote. It is true that universal adult franchise has tended to put the burden of tax on the rich. But this is what it should be. The State is not a joint-stock company so that those who contribute to the stock have a say in its operation, and those who do not, are not allowed [illegible] its working.

2. As regards education, it may be said that political intelligence cannot be measured. There is no doubt that education has

many virtues, but many literate persons never read a book or a newspaper, while there are many illiterate people who have plenty of commonsense. Moreover, there is a system of free and compulsory education in most of the advanced countries today. So the argument that universal franchise leads to the rule by ignorant masses has lost much of its force.

3. Sovereignty belongs to the people. So every adult should have the right to vote.

4. Universal adult franchise stimulates the interest of the people in the affairs of the nation. It makes them aware of their duties as citizens of the State.

In short, suffrage is a fundamental right and must not be denied to anyone. The same applies to eligibility. A person who has the right to vote should also have the right to be elected.

POINTS AT A GLANCE

1. Universal adult suffrage means the right to vote enjoyed by all adult individuals men and women. Lunatics, criminals, bankrupts, aliens, etc., are not given this right.

2. There are two main arguments against the principle of universal adult franchise.

- *(a) Persons who do not pay taxes or who have no property will have no stake in the country. Naturally, they will use their vote carelessly.*
- *(b) Illiterate and ignorant persons should not be given the right to vote because they are unable to use this right properly.*

3. Universal adult franchise has been defended on four grounds :

- *(a) If suffrage is restricted, government will be run in the interest of those who have the right to vote.*
- *(b) Even illiterate people have plenty of commonsense.*
- *(c) Universal adult franchise is in accordance with the theory of popular sovereignty.*
- *(d) Universal adult franchise stimulates the interest of the people in public affairs.*

73 What arguments would you advance for and against women suffrage ? *(Important)*

When the right to vote is given only to adult male members of a political community, it is called manhood suffrage. Women are not given the right to vote. There was a time when women in most countries were deprived of franchise. Today in almost all democratic countries, women enjoy the right to vote.

Women franchise was opposed on the following grounds :—

1. If women are allowed to enter politics, they would lose many of their feminine qualities.

2. If women enter politics, they would neglect household duties, and we may not enjoy the advantages of well-kept homes.

3. If women are granted the right to vote, they may often choose to vote differently from their husbands, and other male members of the family, and this may create differences in the family.

4. In a democratic State, citizens have to perform many public duties. One of such duties is military service. Women cannot perform this service. So they cannot have all the rights which men have.

Advocates of women suffrage advance the following arguments :

1. Laws passed by the legislature are applicable to men and women alike. When men have the right to elect members of the legislature, why should this right be denied to women ?

2. Women being weak require greater protection and safeguards. They are more dependent on law and society for protection. So they must be given the right to elect those who make laws and exercise governmental power.

3. Women are receiving education equally with men. They are entering various professions and trades. They are competing with men in various spheres of life. They are rendering even military service. If they can do all these things, they can also exercise their right to vote.

4. It is argued that the political life in the country wou very much gain by the purifying and refining influence of women if they are admitted to public life. If we study history of legislation in advanced countries like Britain, we shall find that the influence of women has been an important factor in securing 'welfare' laws in regard to matters like child labour, public health, etc.

5. Women are expected to pay taxes. So why should they not be given the right to vote ?

POINTS AT A GLANCE

1. Manhood suffrage means the right of voting enjoyed by all adult males of a political community, except lunatics, criminals, bankrupts and aliens

Women suffrage means the right of voting enjoyed by all women who have attained majority.

2. Women suffrage is opposed on these grounds :

(a) It will unsex women.
(b) Household duties may be neglected.
(c) Differences of opinion between husband and wife will spoil peace and happiness of home.
(d) Women cannot perform military duties. So they cannot have equal rights with men,

3. It is defended on these grounds :

(a) Laws of the State are equally applicable to men and women.

(*b*) *Women require greater protection.*

(*c*) *They have proved their fitness in every other sphere of life.*

(*d*) *Tone of public life would improve.*

(*e*) *Women are paying taxes. So justice demands that they should be given the right to vote.*

74. What do you understand by 'Direct' or 'Indirect' methods of electing representatives? Discuss their comparative merits and demerits.

Direct and Indirect Elections Direct election is a method according to which voters directly take part in the election of their representatives.

Election is said to be indirect when voters do not directly take part in the election of their representatives. It is a sort of double election. In the first instance, voters elect a number of intermediate electors called the 'electoral college'. Afterwards, the electoral college is entrusted with the work of electing the representatives. In this system, the final choice of electing the representatives does not rest with voters or the general body of citizens, but with the 'electoral college'. Members of the Lok Sabha and of the Legislative Assemblies in India are elected directly. The President of India is indirectly elected. The Constitution of India lays down that the President of India shall be elected by an electoral college consisting of the elected members of both Houses of Parliament and the elected members of the State Legislative Assemblies.

Comparative Merits and Demerits. The purpose underlying the indirect method is to avoid as far as possible the evil consequences of the rule by ignorant people. It is argued by supporters of the indirect method that an 'electoral college' is better fitted to select the proper candidates than are the general mass of voters. Intermediate electors are supposed to be more intelligent than the ignorant masses. Moreover, the intermediate electors or members of 'electoral college' cannot be easily led astray by crafty politicians and political parties. As they are expected to be more experienced and intelligent, they will not be easily influenced by those candidates who know how to make emotional speeches. They will elect the representatives after carefully judging the qualifications of candidates.

Evils of indirect election, however, outweigh its advantages. This system is not in harmony with democratic principles. The common voters stop taking interest in public affairs, for they have the feeling that they have no final voice in choosing their representatives. The system of direct election is more in harmony with the spirit of democracy. It encourages the general body of citizens to take interest in public affairs. Moreover, members of the 'electoral college' being smaller in number than the general mass of voters can be more easily approached and [illegible] and influenced.

Finally now with strong party organisations, the method of indirect election has lost all its importance. The intermediate

electors or members of an 'electoral college' are generally elected on party tickets. They are pledged to vote only for party candidates. They cannot act independently. They do not exercise their own choice. They have to obey the behests of the party, and vote accordingly. In the United States, the party system has altogether changed the original scheme of the election of the President. His election, though indirect in form, has become direct in practice. If this is the position, the whole purpose of an indirect election is defeated. Then why to resort to a double procedure causing unnecessary delay and expense?

POINTS AT A GLANCE

1. Direct election is a method according to which voters participate directly in the election of their representatives.

2. According to indirect election, voters choose only the intermediate electors who elect the representatives.

3. Indirect election is supported on the ground that it avoids the evil consequences of the rule by the ignorant masses. Intermediate electors are more experienced and intelligent than the ordinary voters. They cannot be easily influenced by clever politicians and political parties. So they will be able to elect suitable candidates.

4. But the system of indirect election is undemocratic. Moreover, intermediate electors can be easily bribed by the candidates. Further, with the rise of political parties the system of indirect election has lost all its importance.

75. What are the essentials of a sound electoral system?

Essentials of a sound electoral system: 1. The vote must be polled by ballot, *i.e.*, secret voting, for it protects a voter from threats or influence of other people, and he can exercise his free will in the matter of casting his vote. Public voting should be avoided, for a voter cannot exercise his true choice openly for fear of intimidation and undue influence.

2. The system of election should be direct, that is, voters should directly vote for the candidates. Voters are thus encouraged to take interest in public affairs.

3. There should be universal adult suffrage, that is, the right of voting should be given to all adult members of the political community. As far as possible, Mill's formula may be followed with great advantage, that is, 'universal teaching must precede universal enfranchisement.'

4. Careful provision should be made to avoid corrupt practices during elections. There should be perfect purity at elections and strict measures be taken to prevent evils like fraud, bribery, etc.

5. Voters should be thoroughly enlightened of their duties by means of newspapers, platform speeches, pamphlets and other right means of propaganda.

6. The system of separate electorate should be discouraged.

Essentials of a sound electorate system :

(i) Votes by ballot.
(ii) Direct system of election.
(iii) Universal adult suffrage.
(iv) Prevention of corrupt practices during elections.
(v) Voters should be thoroughly enlightened.
(vi) Separate electorates must be discouraged.

POINTS AT A GLANCE

76. 'It is an essential part of democracy that minorities should be adequately represented.' (Mill) Discuss critically the methods that have been generally adopted for the representation of minorities.

Or

How do modern States endeavour to prevent the possible tyranny of the majority? *(V. Important)*

There are political, linguistic, social or religious minorities in almost every State. The representation of minorities is one of the most important and fundamental problems of representative democracy. The existing system of representation (single-member constituencies) does not ensure representation to all the people. Under this system, a candidate getting 51 per cent votes will be elected. It means that 49 per cent voters will go unrepresented. Sometimes, the majority party may not actually secure even bare majority of votes. In a triangular contest, A may get 6 000 votes, B 5,000 and C 4,000. Under the present system, A will be elected although the total number of votes of B and C is more than of A. Thus 9,000 voters will find no representation in the legislature. This method is, therefore, regarded as unsatisfactory. It is true that majorities have an inherent right to take the final decision but minorities have also the right to be consulted and heard during the discussions that precede the decision. If minorities are deprived of representation, democracy cannot be real.

METHODS OF MINORITY REPRESENTATION

Various schemes and methods have been suggested with a view to securing adequate representation for minorities in the legislature, and other representative bodies. The more important of these are : *(i)* Proportional Representation, *(ii)* Limited Vote System, *(iii)* Cumulative Vote System and *(iv)* Second Ballot System.

1. **Proportional Representation.** Its aim is to give each party or group among the voters representation in proportion to its voting strength. It is based upon the principle that a majority of voters should have a majority of representatives, and a minority of voters should have a minority of representatives.

There are two forms of proportional representation, *viz.*, Hare Scheme of single transferable vote and the List System.

Hare Scheme. This system is known as Hare Scheme as it was suggested by one Mr. Thomas Hare, an Englishman. This

scheme requires multi-member constituencies with a minimum of three seats. The voter has one vote irrespective of the number of seats in the constituency, but on the ballot paper he may indicate his first choice, second choice, third choice, etc. Candidates are not returned by majority votes but by obtaining what has been called the quota. The quota can be determined in many ways. The simplest method is to divide the total number of votes by the number of seats to be filld. After a candidate has obtained the required number of votes or quota, further votes cast in his favour are not counted; these surplus votes go to the second choice. Thus, after the first preference is counted, the second choice is also taken into consideration. A minority which cannot by itself obtain the necessary quota of votes can manage to get its candidate elected with the help of second and third choices of voters of the majority party. One example will make this method clear. Suppose there are five candidates to be elected, and 10 000 votes have been cast. This means that only 20,000 votes are required for the election of a candidate. At first only the first choice will be counted. Suppose two out of five candidates obtain the requisite quota of first preferences. In other words, they have been able to secure 2 ,000 first preferences. Their surplus votes are not counted. The remaining three seats are still to be filled up because none of the remaining candidates has been able to secure the quota of 20,000 first preference votes. Now the surplus votes of the two elected candidates will be transferred to the votes of the candidates indicated as the second or third preference by the voters. First, the second choices will be counted, then the turn of the third preferences will come. In this way, the remaining candidates will be elected.

This method is popularly known as 'single transferable vote. In India, this method has been adopted for elections to the Rajya Sabha and to the State Legislative Councils.

List System. According to this method of proportional representation, each party prepares a list of candidates for each multiple-member constituency. Each voter has as many votes as there are seats to be filled up, but he casts his votes for the whole list. The number of seats are divided among the parties according to the number of votes their lists have obtained. The list System prevails in Switzerland and many other European countries.

MERITS AND DEMERITS OF PROPORTIONAL REPRESENTATION

This method gives representation to every party in proportion to its voting strength. Minority parties get a fair chance of securing representation in the legislature. Parliament becomes a true mirror of the nation.

But the great defect of this system is that it makes the parliamentary form of government weak and unstable. As there are a number of parties or groups in the legislature, no party is able to secure an absolute majority in the legislature. It has to seek the support of other parties to form the government (coalition government). In this way, the whole basis of parliamentary government

is weakened. Moreover, this system is more complicated than the simple majority system. Ordinary voters cannot understand it. Finally, the multiple-member constituencies necessary for proportional representation will be very large. This will make the contact between a representative and his voters difficult.

2. **The Limited Vote Plan.** This method also requires multiple-member constituencies with a minimum of three seats for one constituency. The voter is given fewer votes then the number of candidates to be returned. If, for example, a constituency has to elect three representatives, every voter will be given two votes. In this way the minority is reasonably assured of electing at least one candidate, because this makes impossible for any party to capture all the seats.

3. **The Cumulative Voting Plan.** According to this system, a voter is allowed to cast as many votes as there are seats to be filled in a constituency, but he can give all his votes to one candidate or divide them between two or more as he likes. By pooling their votes even small minorities are able to secure some representation. This method also requires multi-member constituencies.

4. **Reservation of Seats.** Another method to give representation to minorities is to reserve seats for them in the legislature. For example, in India seats in Parliament and in the State legislatures have been reserved for the backward classes.

5. **Communal Representation.** The British Goverument in India did not adopt any one of the above devices to give representation to the Muslims and to the other religious communities. It introduced the system of breaking up the electorate into as many separate divisions as the number of religious communities and fixing the number of seats allotted to each with weightage to the minorities. The Muslims thus voted for the Muslim candidate only, the Sikhs for the Sikh and the Christians for the Christian candidate.

This system is most undesirable. Representatives elected by separate electorate appeal to the sectarian or communal spirit of voters, making their outlook very narrow. It causes embitterment of feelings among different groups, sects or communities. Bad feelings between Hindus and Muslims in India were largely due to separate electorates. Moreover, the minority is permanently put under a hostile majority. The fundamental rule of democracy is that the minority should have a chance of turning itself into majority. But under the system of separate electorates, members representing the minority will always be helpless, vainly struggling against a majority.

Thus the system of separate electorate is against the principles of democracy and nationalism. It goes against the teachings of history. It is nothing short of a great curse. The interests of religious minorities can be protected by providing safeguards in the Constitution.

POINTS AT A GLANCE

1. Democracy will be real only when all classes and interests are adequately represented in the legislature. Majorities have the right to rule, minorities also have a right at least to be heard.

2. The methods suggested for the adequate representation of minorities are :

(a) Proportional representation ;

(b) Limited vote plan ;

(c) Cumulative voting plan ;

(d) Reservation of seats ;

(e) Communal representation.

TERRITORIAL VS FUNCTIONAL REPRESENTATION

77. "True representation is always specific and functional and never general and inclusive." Comment.

Or

Explain briefly the claims of (*a*) functional and (*b*) territorial representation in the modern State.

Or

Write an explanatory note on functional democracy.

Modern democracy is based upon the principle of territorial representation of political parties or political opinions. Votes of a particular locality or area elect their representative, no matter what their occupation or profession may be. For example, a member of the Indian Parliament may represent an area or locality (known as territorial constituency) in which men of different profession or vocations are living. He is expected to represent the interest of all the classes such as industrial workers, business men, peasants, government servants, lawyers, doctors, teachers, etc. This is the meaning of the statement that representation is general and inclusive.

Functional representation is that system of representation according to which each group of people, following a particular vocation, has the right to elect a representative. For example, doctors elect a doctor as their representative, teachers elect a teacher as their own representative and so on. It is pointed out by its supporters that a representative elected on territorial basis cannot represent all the interests of his locality. It is almost impossible to do so. He can represent only the interests of his own class, not of his locality. Everybody is more class-conscious than area-conscious. A doctor is competent to represent medical people. He cannot represent the interests of teachers, lawyers, industrial workers and others. True representation is always specific and functional. Under modern conditions, the allegiance of an individual to his class is stronger than his allegiance to his locality or area. All questions of public policy are influenced by the class interests of people. Territorial representation is undemocratic. Legislatures should be organised on functional basis, and not on territorial basis. Functional representation is more in accord with democratic principles. Only functional democracy is true democracy.

COMMENTS

The chief merit of functional representation is that each interest secures representation in the legislature which becomes a true mirror of the feelings of the nation. But this system suffers from certain serious defects. Such a representation would make the outlook of a representative narrow and limited. He will forget the nation, and concentrate on a particular interest. The real function of a representative is not to promote the interests of class at the expense of national interest. His duty is to promote general welfare. This system will make the legislature a battle-ground for warring groups, each fighting for its special interests. Only a representative elected on a territorial basis can promote the interests of the nation as a whole.

Moreover, this system destroys the unity and solidarity of the nation by encouraging class thinking.

Further, there is one practical difficulty involved in the representation on the functional basis. What is the principle according to which the number of representatives should be assigned to each profession or vocation? According to which principle should the relative importance of each profession or vocation be determined? It is almost impossible to solve this difficulty.

As a matter of fact, functional representation is unnecessary. The legislature can keep itself in touch with the views of various occupations and professions through special bodies representing them. The legislature can consult such bodies from time to time for making laws affecting the special interests of the various occupations and classes. For example, while fixing working hours and minimum wages of workers, the legislature may consult the special bodies representing the employers and the workers.

POINTS AT A GLANCE

1. Most of the legislatures today are organised on territorial or regional basis. The voters of a particular locality elect their representative, no matter what their professions may be.

2. This system is criticised by supporters of functional representation. They say no person can represent others. He can represent only the interests of a group or profession to which he belongs. So the legislature should be organised on a functional basis.

3. The principle of functional representation cannot be accepted as it makes the outlook of a representative narrow and destroys the unity of the nation. Moreover, it is not easy to determine the relative importance of each profession or occupation.

4. Legislature organised on the territorial basis should consult the representatives of special interests or groups when a law concerning them is to be passed.

SUGGESTIVE QUESTIONS

1. Discuss the different systems of electing representatives to a legislature and discuss their advantages and disadvantages.

2. What are the arguments for and against women's suffrage?

3. Describe some of the methods of giving representation to minorities in democratic legislatures.

4. "While majorities have an inherent right to rule, minorities have an equally solemn right to be heard." Discuss this statement and describe briefly the means adopted to protect the interests of minorities.

CHAPTER XIX

POLITICAL PARTIES AND PUBLIC OPINION

Outline

Meaning of political party
Inevitability of political parties
Functions of political parties
Advantages and disadvantages of political parties
Two-party system Vs. Multiple-party system
Meaning of public opinion
Agencies of public opinion
Public opinion and law

We have mentioned earlier that in the modern world, democracy is of indirect type. The people do not directly participate in public affairs. Their real job is to elect their representative who rule on their behalf. All genuine democracies have two or more political parties. They (the political parties) try to influence voters with a view to seizing power in the State. In this chapter, we shall discuss the role of political parties in the working of indirect or representative democracy.

78. What is a political party? Are political parties inevitable in democracy? Examine carefully the merits and defects of the party government. *(V. Important)*

We live in the age of representative democracy in which people choose their representatives to speak, act and carry on the work of government on their behalf. A natural result of the triumph of the democratic form of government is the coming into existence of political parties.

DEFINITION

A political party has been defined as a voluntary association of individuals sharing identical views with regard to public matters, and trying to capture the governmental machinery by constitutional means in order to promote national interests.

The English statesman, Edmund Burke, thought of a party as a group of men who had agreed upon a principle by which national interests might be served.

A political party has thus the following features :

1. It is a voluntary association, not a compulsory one.

2. Members of a political party hold certain common views regarding public matters.

3. A political party in a democracy tries to come into power by peaceful or constitutional means. If an organisation tries to capture power by force, it is not a party in the true political sense.

4. A party to be effective must be well-organised. It must have well-laid down rules and regulations with regard to membership, policy, programme of work, etc.

5. A good political party always tries to promote national interests, and not selfish or sectarian interests. It is quite different from a faction which is a loose group of persons who want to serve their own ends by capturing power.

INEVITABILITY OF POLITICAL PARTIES

The growth of political parties in democratic States is inevitable. Political parties and democracy always go together. How?

In a democracy, the people enjoy the right to express their view freely. In public affairs there can be no unanimity. People have different views regarding political, economic and other affairs. There is a psychological reason for that. Men and women do not have the same temperament. Man's temperament often determines his politics. One writer says, "Every boy and every girl that's born into this world alive, is either a little liberal or else a little conservative or a little socialist." There are persons who cling to the old institutions. There are others who embrace the new; they want to change the present institutions and conditions in society, and bring about a new social and economic order. Laski says : "Parties are born of the natural contract between those who cling to the old and those who embrace the new. Temperamental differences, or imitative tendencies of men might give rise to parties."

Temperament of a person is often modified by age as well as by circumstances. It is generally seen that with advancing years, a person shows a tendency to move towards conservatism. There is a good deal of wisdom in the saying of a king of Sweden : "A young man, my dear minister, who has not been a socialist before he is five and twenty, shows that he has no heart. But if he continues to be one after five and twenty he shows that he has no head." This shows that young people are generally emotional, and their opinions are progressive or radical. But their views tend to become less progressive with age. Old people are generally cautious, Anyhow, political parties come into existence because men disagree, and temperamental differences are responsible for this disagreement to a great extent. We should remember that it is only democracy which allows people to express different views regarding public affairs. So the growth of political parties in a democratic system of government is quite natural.

There is also a practical basis of political parties. Men and women of similar views know that if they do not put forward their views in an organised manner, they cannot influence public policies and affairs. Men and women line up with others to be effective. They know that he who plays a lone hand will not achieve much. Democracy allows people to associate freely with one another

Thus we find that the growth of political parties in a democratic system of government is inevitable.

The growth of political parties in dictatorships is not possible. In dictatorships, men and women cannot express their opinions openly. Nor can they associate with one another freely. A dictator suppresses all opposition ruthlessly. In such a system of government, only the party of the dictator has the monopoly of political

power. A one-party system cannot be called a true political party system.

KINDS OF POLITICAL PARTIES

In modern democratic States, we find four general types of political parties—reactionary parties, conservative parties, liberal parties and radical parties. Reactionaries cling to the old institutions. Conservatives believe in the *status quo*, that is, they try to conserve the present political and economic institutions. Liberal parties favour reforms. They want to reform the present institutions. Radicals want to change the present institutions completely, and bring about a new political, economic and social order. In current political usage, reactionary and conservative parties are called parties of the right. Radical parties are known as parties of the left. Liberal parties are parties of the centre. The terms 'right' and 'left' are used in various degrees of comparison. The Communists, for example, are referred to as the 'extreme' left.

ROLE OF POLITICAL PARTIES IN DEMOCRACY

The following functions and advantages of political parties make it quite clear that they play a very important part in the working of democracy :

Functions :

1. The first function of every political party is to stimulate its policies and programmes, and to popularise them. It selects those issues which are of fundamental importance, or are likely to appeal to the people. Ordinary voters cannot understand complex and difficult problems. Political parties explain those problems to the people. Parties thus act, as Lowell puts it, as brokers of ideas.

2. The second function of a political party is to select candidates for public offices. This is a very useful function performed by political parties in the modern democratic States. Today constituencies have become very large. It is very difficult for voters to choose a suitable candidate. This work is done by political parties on their behalf.

3. Political parties launch election campaigns. Fighting an election is not an easy task today. It requires a nation-wide propaganda and a huge expenditure, and both these functions can best be performed by political parties. An individual cannot successfully contest an election unless he is a member of some political party.

4. The party, which is successful at the polls, forms the government, and tries to put into practice its programmes and policies.

5. Minority party or parties form the Opposition. They perform the useful function of criticising the party in power whenever its policies and actions go wrong.

Merits :

1. Party system gives political education to the people. Democracy is a government by the people. But ignorant and uninterested people cannot make democracy a success. If parties do not exist, most of the people will not understand political ques-

tions. Political parties explain political questions to the people and tell them how those problems can be solved. Through constant propaganda and discussion of public issues, they rouse the interest of the people in questions of public importance. Particularly at the time of elections, the propaganda carried on by political parties has a great educative value. Even the most ignorant voters begin to take interest in politics, and become familiar with the pressing problems of the day. Voters' will is expressed through party programmes. Without political parties, voters would wander aimlessly and ineffectually. Party system is the vital principle of representative democracy.

2. Party system is essential in a parliamentary form of democratic government. Such a government will not work even for a day if there were no political parties. In this form of government, the real executive or Cabinet is responsible to the legislature. It has to resign whenever the legislature indicates its lack of confidence in it. If there is no organised majority to back the Cabinet, the Cabinet will be weak and unstable. It will be in constant fear of dismissal. A government, once elected, should stay in charge of the administration for a few years to give the country political peace and continuity in policy. What makes a government stable in the parliamentary form of government is the party system.

Another utility of party system in a parliamentary form of government is that it checks the growth of despotism. The essence of this type of government is that the executive government shall be open to criticism, otherwise the government would cease to be democratic. But criticism can be effective only when it is organised. If it is left to the whims of independent members of the legislature, it will be comparatively useless. It is necessary to have political parties in the legislature if criticism is to be organised. In the parliamentary form of government, one party, or a group of parties, is the official Opposition in Parliament. Its duty is to oppose the executive government, to criticise it, to reveal weak points in its arguments and to expose wrong moves in its action.

3. In the presidential form of democratic government, political parties break the rigidity of separation of powers. We know that in this system the legislature is separated from the executive. If there are no political parties, the whole administration will suffer from deadlocks and conflicts between the two organs. In the United States, the President generally belongs to the party which commands a majority in the legislature. As the same party controls the legislative and executive organs of government, the danger of deadlocks is minimised. Political party system in America has helped to bridge the gap created by the Constitution.

4. Another advantage of political party system is that it helps poor people to become members of the legislature. In a truly democratic State, all citizens, other than criminals and lunatics, should be eligible for election as representatives in the legislature. Certainly no one should be excluded on account of poverty. On the contrary, it is important that many poor men and women should sit in the

legislature to represent the poor classes of the community. But election to parliament is, in most countries, an expensive business. If a poor man has to depend on his own resources, he will never aspire to be a member of the legislature. Only rich men will become members of the legislature, and democracy will be a farce. Party system helps to overcome that difficulty. Each party has its funds and bears the election expenses of candidates who may be rich in brains, but poor in finance.

Demerits :

Party system is not free from defects. It is blamed on the following grounds :

1. One of the allegations against political parties is that they disrupt national unity by dividing the people into "enemy" camps. They create an atmosphere of bitterness in the country. In a country like India where some parties are based on religious differences, party system is responsible for causing communal bitterness. Communal riots break out, and the whole country suffers.

2. Political party system leads to political nepotism or favouritism. Government jobs are given to those persons who support the party in power, and are recommended by party leaders. Undeserving persons get many benefits and the claims of competent persons are ignored. In the United States, this evil practice is known as the 'Spoils System.'

3. Party system is opposed to the spirit of true democracy. Party discipline does not permit members of a party to express their opinions independently. Every member has to abide by the decision of the party as expressed through its leaders. Thus party system destroys freedom of thought and speech without which democracy cannot be real. Individual members become mere cogs in the party machinery.

4. Under party system, the government becomes partisan. National interests are pushed to the background. Burke has defined a political party as "a body of men united for promoting by their joint endeavours the national interest, upon some principle on which they are all agreed." But in actual practice, party government promotes sectional interests. Members of a party seek to promote their party interests and forget national interests. The party in power and the opposition parties always think in terms of party advantage. The party in power adopts all sorts of cheap tactics to retain power in its own hands. It passes laws in the interest of those persons or classes on whose support it depends.

On the other hand, opposition parties always try to discredit the party in power in the eyes of people, even if the party in power is working properly. The legislature becomes a battle-field and its debates become a perpetual struggle between the 'ins' and the 'outs,' *i.e.*, party in power and parties out of it. No party seems to bother about national or public interests.

That the party system has certain defects cannot be denied even by its staunch supporters. But this does not mean that we

should establish a non-party State or a single-party State. A non-party State is hardly practicable, and a single-party State will lead to totalitarianism and dictatorship. Whatever defects the party system may have, it is considered to be inseparable from democracy or free government. We cannot do without political parties. The only thing we can do is to remove the defects of this system. Political parties must not be organised on a narrow communal basis. They should be based on broad political and economic principles. Moreover, the defects of the party system can be overcome to a great extent by spiritualising politics. The moral standard of public conduct should be improved. A sound and vigilant public opinion, which will not put up with any corrupt practices, can help a lot in achieving this purpose.

POINTS AT A GLANCE

1. A political party is an organised group of citizens who share the same views regarding public matters, and who work together in share to capture power by the use of their votes.

2. Political parties select issues and place them before the people, select candidates for election and launch election campagins. The majority party forms the government and tries to put its programme into practice. The minority parties form the "Opposition" and criticise the government when things go wrong.

3. Advantages of political parties are :

(a) They import political education to the people.

(b) The parliamentary form of government is not possible without the support of organised political parties.

(c) Parties break the rigidity of separation of powers in the presidential form of government.

(d) Poor condidates get themselves elected through political parties.

4. Demerits of political parties are :

(a) They disrupt national solidarity.

(b) Party system encourages nepotism.

(c) Political parties destroy the independence of individual members, and are thus against the free spirit of democracy.

(d) Government becomes partisan in character under the influence of parties.

79. Compare the advantages and drawbacks of two-party and multiple-party systems.

Or

It is said that a two-party system is essential for the working of parliamentary government. Discuss this statement in the light of French and English experiments.

(*V. Important*)

If we study the political life of the various democratic countries, we will find that, in some countries, the political scene is dominated by two strong political parties. Such a system is known

as two-party system. In England, for example, either the Labour Party or the Conservative Party is able to capture power. One party forms the Government (*i.e.*, the executive) and the other forms the Opposition. The Liberal Party which was once the chief rival of the Conservative Party has now been virtually ousted by the Labour Party. It is now not in a position to have any sizable influence on the political life of the country. In America also, there are at present two principal parties—the Democrats and the Republicans.

If there are more than two political parties that are able to influence the political life of a country considerably, the system is known as multiple-party system. A multiple-party system prevails in France. No French party is able to secure an absolute majority in the legislature and to form the Government alone.

Comparative Merits and Demerits of both Systems :

1. Under the two-party system, the Cabinet or parliamentary form of government runs very smoothly. As one party enjoys an absolute majority, the Cabinet is strong and stable. It can carry on the administration in an effective manner. The Cabinet can always depend upon the support of the majority party. It can adopt any policy and execute it boldly. In England, the two-party system has contributed greatly to the success of the Cabinet form of government.

On the other hand, the multiple-party system makes the Cabinet unstable. Under this system, no party is able to secure an absolute majority in the legislature. So the Cabinet is formed on a coalition basis. A coalition Cabinet is weak and unstable. Its life is very uncertain. In France, where this system prevails, the Government changes very often. It is a well-known fact that the average life of French government is not even six months. It is a very rare thing for a British Cabinet to last less than one year. But it is almost as rare for a French Cabinet to last as much. Under such circumstances, no government can do any useful work. It cannot launch any long-term plans. Nor can it adopt continuous and effective policies. The parliamentary form of government has practically failed in France because of the multiple-party system.

2. Under the dual-party system, the 'Opposition' is more responsible and dignified than under the multiple-party system. The 'Opposition' resorts to sober and healthy criticism of the Government. The Government also listens to the criticism of the 'Opposition' more attentively because it knows that at the next election the Opposition may be able to capture power. On the other hand, under the multiple-party system, the Opposition is generally irresponsible in its criticism of government policies. It concentrates its energies only on one thing—defeat of the Government. The Opposition always indulges in intrigues with the purpose of defeating the Government.

3. Under the two-party system, a change in the Government is very simple. When the party in power resigns office, the Opposition immediately steps in and assumes the reins of government.

Constitutional crises are easily avoided under this system. Constitutional crises are frequent under the multiple-party system.

4. The two-party system is very convenient to the people. At the time of election they choose between clear-cut programmes of two rival parties. As a matter of fact, they can decide beforehand which party should rule over them. Under the multiple-party system, the people have no say in the making of the Government. It is formed by unscrupulous leaders of groups inside the legislature.

5. Under the two-party system, it is easy to fix responsibility for failures. Under the other system, it is difficult to hold any particular party responsible for failures.

In short, the two-party system "enables the Government to drive its policy to the statute book. It makes known and intelligible the results of failure. It brings an alternative Government into immediate being" (Laski).

The two-party system also suffers from some defects. The first drawback of this system is that it makes the Cabinet despotic. The Government is always sure of its strength and cares little for the wishes and opinions of the Opposition. Under the multiple-party system only coalition Cabinets are possible. A coalition Government, by its very nature, has to adopt moderate policies. It cannot afford to behave in a despotic way. Secondly, the two-party system does not secure the representation of every opinion in the country. The people are compelled to vote for either of the two. Their choice is limited. It is possible that there may be many people who do not approve of the programmes and policies of either party. Under the multiple-party system, a voter has a wide choice. As there are many parties in the field, he can vote for a party which is akin to his opinions and principles.

It is true that the multiple party system has some merits, but it cannot suit the parliamentary form of government. Under this system, ministries are short-lived. Good administration demands that the government should be stable. This need can be fulfilled by the two-party system. This system enables the Government to follow a strong and continuous policy.

POINTS AT A GLANCE

1. Two-party system is a system under which the political life of a country is controlled by two strong parties.

2. If more than two political parties are able to influence the political scene of a country, the system is known as multiple-party system. ***France is known for this system.***

3. Advantages of the two-party system are ;

(a) It makes the Government strong and stable.

(b) The 'Opposition' behaves in a responsible manner.

(c) The Government can be changed in a simple way. The chances of a constitutional deadlock are minimised.

(d) It is very convenient to voters.

(e) Responsibility for failures can be easily fixed.

4. ***Defects of this system are*** :

(a) *It leads to the dictatorship of the Cabinet.*

(b) *It does not secure the representation of every opinion in the country.*

5. *Parliamentary form of government works best under the two-party system.*

80. Write a short note on one-party system.

An important feature of totalitarian States or dictatorships is their one-party system. It is this characteristic which distinguishes them from democracies. Pre-war Germany and Italy were one-party States. The Soviet Union and other Communist States are all one-party States.

One-party system is not compatible with democracy. Genuine democracy encourages opposition. But in a one-party system, all opposition parties are ruthlessly suppressed. The faintest whisper of opposition is punished in the most savage manner. The people do not enjoy the right to freedom of speech. Nor are they free to associate with one another. One of the great advantages of the party system is that it always provides a possible alternative government, and gives voters a choice between them. Under the one-party system, there is no alternative government and no choice before the voters. The result of this is that the influence of the masses on political decisions is reduced to a minimum.

The following are important features of one-party system.

1. The party is restricted to a small fraction of the total population. The Communist Party of the Soviet Union, for example, totals three per cent of the population. Prospective candidates are carefully observed during a long period of probation and preparation. Once admitted to the party, members have to dedicate their life completely to the party. Members have to abide by the iron discipline of the party. They must not deviate from the line prescribed by the high command of the party. Every now and then, a purge is conducted in order to rid the party of those who are too weak, too half-hearted, or too independent to carry out the decisions of the party leadership. In 1934, the Nazi party in Germany purged itself of many important members by shooting them down. There were many purges in the Soviet Communist Party, between 1936 and 1938. Many important members of the party were tried for treason. They were either executed or imprisoned. The execution of Beria and many others in the Soviet Union is only a recent history.

2. Elections under the one-party system are nothing but a farce. Persons opposed to the party in power are not allowed to contest elections. In the Soviet Union, only one candidate is nominated for each seat in the legislature. All voters have to vote for the 'official' candidates. Elections of this type are called "dictated elections." The reason why elections are held in dictatorships is that in the twentieth century some semblance of popular support perhaps seems necessary.

3. **The legislature in the one-party system becomes a rubber-stamp.** It is dominated by the representatives of one party. It does not perform any real deliberative or legislative function. The German legislature under Hitler passed only seven laws in seven years. The Italian legislature did not have the power to pass any law which had not been approved by Mussolini. The Supreme Soviet (legislature of the Soviet Union) meets briefly twice a year. It only hears reports from the Government and ratifies without question the decrees issued by the Presidium consisting of high-ranking Communists. It also votes without question the budget for the year.

4. The party controls and directs all the media of communication. The press, the radio, educational institutions, etc., are all used to preach party dogmas. The minds of the people are dressed with uniformity. The dictator indulges in a sort of psychological coercion.

POINTS AT A GLANCE

1. One-party system is an important feature of all modern dictatorships.

2. The following are the features of one-party system :

(a) Limited membership and practice of periodic purges ;
(b) Elections reduced to a farce ;
(c) Legislature is only a rubber-stamp ;
(d) Complete control of all the media of communication to preach party dogmas.

81. Describe briefly the political party system of Britain, America, France and India.

British Party System. England is known for her two-party system. In the 19th century, the political fight was between the Whigs and the Tories. They later acquired the names of Liberals and Conservatives. The early years of the twentieth century saw the emergence of the Labour Party and it was feared that England would soon lose her two-party system. But as soon as the Labour Party rose, the Liberal Party declined. At present, the role of the Liberal Party is insignificant, with the result that the two-party system is quite intact in England, and party differences are clearly defined. There are Communists also in the country, but they cut noice.

The Conservative Party believe that the capitalist system must continue. It believes that the defects of this system must be removed, but the basic structure of the society must remain unaffected. The Party derives its main support from the church and from the rich class of the country.

The Labour Party is a socialist party and believes that the means of production should be owned and controlled by the State. It believes that political democracy must be supplemented by economic democracy. The Party challenges private property and the profit motive. It stands for the gradual nationalisation of important industries and for more equitable distribution of wealth. The socialism of the Labour Party is, however, not of a revolution

type. It believes in peaceful and parliamentary methods. In the sphere of foreign relations, the Party stands for promotion of international goodwill and the strengthening of the U.N.O. The Party gets its main support from trade unions, co-operatives, etc.

Parties in the U.S.A. There are at present two important parties in America—the Republican and the Democratic Parties. There are other small or splinter groups also, but they do not enjoy much support in the country. In America, as in Great Britain, there is a **two-party system.**

The American parties have no ideological basis. They cannot be exactly classified under the left and right pattern. There are conservative and progressive Democrats and Republicans. They include sections of all classes of the population. Dr. Finer is right when he says that in "America there is only one party—Republican-cum-Democratic party—divided into two nearly equal halves by habit to contest office." Both the parties adjust their policies to current circumstances and problems.

The political party system performs the useful function of securing unity and harmony between the different organs of government. The American Constitution is based upon the theory of separation of powers. The legislative and the executive organs are separate from each other. Political parties harmonize these two branches of the American government. Generally, the party which captures the presidency also succeeds in securing a majority in Congress. In this way, the executive and the legislative branches of government are able to work in harmony and cooperation. Without well-organised political parties, co-operation between these two organs would become very difficult and the whole governmental machinery would become a mass of deadlocks and conflicts.

French Party Systems. The French party system is quite different from that of Britain or America. In Britain and America, it is regarded as quite natural that there should be two large parties. One should rule and the other should oppose, and they may exchange their positions after intervals. In France, however, there are many party groupings, and no party is able to capture power alone.

The important political parties in France are U.N.R. (Union for the New Republic. This party supports General de Gaulle), the Communist Party, the Socialist Party, the Popular Republican Movement and the Radical Socialists. In addition, there are several ill-defined political parties.

In one sense, the French system reflects the will of the French people better than does the two-party system of Britain because the choice before the French people is much wider. But in another sense the choice loses much of its significance. In Britain, the people themselves decide which party should rule. In France, government-making is not in the hands of the people. As no party is able to secure a majority of seats in the legislature, government-making is in the hands of the leaders of different political parties in the legislature.

The Cabinet, or Government is formed as a result of bargaining between the various political parties. Sometimes, a party which

has only a few seats in the legislature (which shows that it is not liked by the people) is able to find a place in the Government. There is another serious defect of the multiple-party system of France. Since the French Cabinets are always coalition Cabinets, they are weak and short-lived. They cannot pursue strong policies and launch upon long-term planning. There is a substantial truth in the statement that the parliamentary system of government has almost failed in France.

Indian Political Party System. In India, we have a number of political parties, such as the Congress, the Praja Socialist Party, the Communist Party, Bhartiya Jan Sangh, etc. But the most important party is the Congress. It was formed in 1885. The history of the Congress is the history of the Indian people's struggle for freedom. Before the achievement of independence, it was not a political party in the proper sense. It was the chief vehicle of the Indian nationalist movement. It was able to gather which its fold different groups of people holding different political views. After independence, other groups, like the Socialists, left the Congress. Now it is a homogeneous political party.

The party declared at its 60th session at Avadi, that its aim was the "establishment of a socialistic pattern of society, where the principal means of production are under social ownership or control and there is equitable distribution of national wealth." In the external sphere, the Congress stands for international friendship and goodwill. It does not want India to join any Power bloc.

The Congress is a well-organised political party. It has branches all over the country. The first three general elections under the new Constitution were won by this party. It is now the party in power.

The Praja Socialist Party was formed by the merging of Kisan Mazdoor Praja Party with the Socialist Party. The Kisan Mazdoor Praja Party was formed under the leadership of Shri J.B. Kripalani. It consisted of dissident Congressmen. The Socialist Party was formed in 1934 by Shri Jai Prakash Narayan, Achyut Patwardhan, Asok Mehta and others.

The Praja Socialist Party aims at establishing a democratic socialist society in India. It stands for the socialization of the means of production through peaceful and democratic methods. The Party still accuses the Congress of having a capitalist ideology, With regard to foreign policy, the Praja Socialist Party states that it believes in a new world of equality, freedom and peace—a world in which there is no domination or exploitation of one nation by another. It believes that India should not do anything that is likely to increase the influence of either the American Camp or the Russian Camp. If the people of democratic India can hope for healthy opposition from any party, they generally look to the P.S.P. But unfortunately the Party lacks unity in its ranks. It has been deserted by many leaders including Shri Jai Prakash Narayan who has now joined the Bhoodan movement.

The Communist Party of India was formed in 1924. Its aim is to build up socialism according to the teachings of Marxism-

Leninism. It calls for the confiscation and nationalisation of all British capital and complete withdrawal from the Commonwealth. It wants to transfer all lands of landlords and of princes, without payment, to the tillers. It is, no doubt, a well-organised political party, but it is criticised on the ground that it looks to Moscow for inspiration and guidance, and wants to establish a dictatorship on the Russian model. The party does not hesitate to use any means including violence to bring about a new social and political order. The Communist leaders have recently repudiated violent tactics followed by the Party, but in non-Communist quarters this is regarded as a change of tactics to deceive the Government and the people.

The Hindu Mahasabha and the Bhartiya Jan Sangh are parties of the right. The Hindu Mahasabha came into existence in the first years of the current century with the object of protecting the Hindus. It was thus the rival of the Muslim League. The most important item on the programme of the Party is undoing the partition of India. But how? This is not clear. The Party is too weak to influence Indian politics. Bhartiya Jan Sangh was organised under the leadership of the late Mr. Syama Prasad Mookerjee in 1951. It is associated with Rashtriya Sevak Sangh. It claims that it stands for: democracy based on the freedom of the individual and the rule of law; prohibition of cow-slaughter; and the withdrawal of Kashmir issue from the U.N.O.; encouragement of private enterprise industry; military training for all; strict reciprocity towards Pakistan, and so on.

POINTS AT A GLANCE

1. Britain has a two-party system. The two important parties are the Conservative Party and the Labour Party. The Labour Party is a socialist party. The Conservative Party believes that the capitalist system must continue.

2. In America also, there are two important political parties—the Republican and the Democratic Parties. The American parties have no clear-cut principles and programmes.

3. France is known for her multiple-party system. The important political parties in France are the Communist Party, the Socialist Party, the U N R. and the Radical Socialists. The parliamentary system of government has almost failed, in France because of multiple-party system which prevails there.

4. In India, there are a number of political parties such as the Congress, the Praja Socialist Party, the Communist Party, the Bhartiya Jan Sangh, etc. The most important party is the Congress.

82. What is public opinion? What are the agencies that form public opinion and express it? Discuss the relationship between law and public opinion. *(Important)*

Meaning of Public Opinion. The term 'public opinion' is often employed in political literature, but there is no general agreement as to its meaning. It is a term which eludes precise definition.

Public opinion is not sum-total of confused and incoherent opinions held by different citizens or a group of citizens. This term can be applied only to a definite opinion which is the result of a process of clarification and co-ordination of views held by different persons.

Again, public opinion need not be the unanimous opinion of all citizens. Unanimity is not of this world. It is neither possible nor necessary that public opinion should be unanimous. Individuals differ from one another in heredity, experience and education. So it is not possible that they will express the same opinion with regard to a matter of public importance. There may be public opinion even if there is no unanimity.

Is then public opinion the opinion of the majority of the people? The answer is that it may be or may not be. Mere majority is not enough. If the majority is determined to promote its own interests, ignoring the interests of the minority, its opinion will not be a true public opinion. It will be only a sectional opinion. The majority must convince the minority that its opinion will lead to general welfare. One thing more. An opinion is not ascertained only by counting the number of persons holding it, but by weighing the arguments advanced in its support and the intensity of feeling with which it is made known.

We can now define public opinion as the considered opinion of an effective majority of citizens, based on the ideal of well-being and progress of the community as a whole.

Public opinion has thus the following important features :

1. It is a definite opinion. It is not an aggregate of confused opinions of the people.

2. It is held by an effective majority.

3. It is based on sound arguments and reason. It is not just a belief or prejudice.

4. It is based on the ideal of common good.

Many critics hold that what generally passes for 'public opinion' is neither *public* nor *opinion*. They say that in reality only a few people think on public affairs. Most of the people simply accept blindly the views or view held by certain interested persons or organisations. Such persons and organisations distribute ready-made views through the press and other agencies. The soundness of public opinion, therefore, depends on the intellectual level of the people and on the honesty and wisdom of their leaders and of other opinion-forming groups and agencies.

AGENCIES OF PUBLIC OPINION

How is public opinion formed and expressed ? Public opinion can be formed and expressed rightly by the people, if they are educated, and if they are willing to devote their time and energy to public affairs. The following are the agencies which mould and express public opinion:

1. The Press. The word 'press' includes daily newspapers, weekly and monthly periodicals, and other published material. The

press is rightly regarded as a forceful agency of moulding public opinion. The main function of a newspaper is to present news and to give its comments on important events. The readers form their opinions on the basis of the news and views presented to them by the press. They also express their opinions through newspapers. The importance of the press is increasing with the spread of education. Newspapers are now read by an increasing number of literate people. It may be mentioned that only an independent press can form a healthy and enlightened public opinion. If the press is not free or if it is prejudiced, it will distort or suppress news and facts and the growth of a healthy public opinion will become a difficult task.

2. **Public Platform.** What the press achieves through the written word, platform achieves through the spoken word. Public meetings for the purpose of discussing economic, social and political matters are becoming more and more common and popular. The superiority of public meetings over the newspaper lies in their direct appeal to the people. It is generally recognised that the written word cannot achieve what the spoken can, because the appeal of the latter goes direct to the heart. Moreover, the spoken word can appeal to the educated and the illiterate alike. In a country where only a very small number of the people are educated, the importance of the platform is even greater than that of the press

3 **Political Parties.** In the modern democratic countries, political parties play an important role in forming public opinion. One of the most important functions of political parties is to acquaint the people with all important public questions. They create public interest in all important matters of the day, and try to shape the views of the people. Public opinion is expressed at the time of elections. Election results indicate the trend of public opinion.

4. **Radio and Cinema.** The radio is a powerful instrument of education and propaganda. News items are broadcast. Talks are given by experts in many fields, and listened to by many people who would not bother to get the information from books and newspapers. Leaders can remain in touch with the whole nation through the radio. All this helps in the formation of public opinion. But it must be remembered that in unscrupulous hands the radio can prove very dangerous. In totalitarian States, the radio has been used by the party in power to enslave the minds of men and women.

Like the radio, the cinema is a modern invention. It can be used profitably for imparting education to those who seek entertainment and recreation. If the cinema is properly used, it can be a source of both pleasure and enlightenment. It can help a lot in the formation of a healthy public opinion on a particular problem.

5. **Educational Institutions.** Educational institutions, like schools, colleges, universities, debating societies and the like are the first builders of public opinion. They are the nurseries of creative citizenship. Education in schools and colleges widens the outlook of students and helps them to form the habit of independent thinking, and to arrive at a correct judgment. The ideas that students pick up during the most impressionable period of their lives are not easily forgotten.

6. **Legislature.** The legislature in the modern democratic State not only reflects but also guides public opinion. Parliamentary discussions throw a flood of light on the problems facing the country. They provide a splendid education in public affairs, and thus they mould public opinion.

LAW AND PUBLIC OPINION

There exist a very intimate relationship between law and public opinion or between democracy and public opinion. Law should be the concrete expression of public opinion. There is a substantial truth in the statement that the true function of public opinion is to effect a proper relation between the legal and ultimate political sovereignty.

Modern democracy is of the indirect type. This means that the people participate indirectly in governmental affairs. They elect their representatives who rule on their behalf. The legislature consists of the representatives of the people. The representatives have to take into consideration public opinion while making laws. They have to keep their hand on the pulse of the people. If laws are passed against the wishes of the people, they will not be readily obeyed by them. Legislation should conform to the public opinion. If this conformity exists, peace and harmony prevail in the State. If there is divergence between the two, strife and conflict are the results.

Secondly, it is in the interest of the legislators that they should educate and ascertain public opinion before they pass a new law or repeal an old one. If they flout the wishes of the people, they will endanger the chances of their re-election.

Of late, there has been distrust of the modern legislatures. It is said that the representatives lose touch with the wishes and aspirations of the people, and the laws passed by them do not reflect the will of the people. To establish conformity between legislation and public opinion, the system of initiative and referendum has, therefore, been suggested by certain writers. The device of initiative is a corrective to the omissions of the legislature. It enables the people to get a certain law passed even if the legislature is opposed to it. The device of referendum is a corrective to the commissions of the legislature. By making use of this, the people can reject a law passed by the legislalure if such a law does not reflect their wishes.

Without going into the advantages and disadvantages of this system, it may be said that the devices of initiative and referendum can be usefully employed only in a small country.

The only way to make the legislatures responsive to the wishes of the people is to organise public opinion on a sound basis. The people should be educated and vigilant. If the people do not take any interest in what the legislature does, democracy will lose its true colour. In that case, the representives of the people may make laws which are in the interest of a particular class. It is rightly said that an alert and intelligent public opinion is essential to democracy and liberty.

In democratic countries, legislatures try to ascertain public opinion by circulating important legislative proposals among the people for eliciting their views. Legislative committees invite important members of the public to express their views with regard to proposed legislative measures. All this shows that the importance of public opinion in the sphere of legislation is recognised.

POINTS AT A GLANCE

1. Public opinion is the considered opinion of an effective majority, and based on the ideal of well-being and progress of the community as a whole.

2. Press, platform, political parties, radio and cinema, educational institutions and legislature are the agencies of public opinion.

3. The relation between law and public opinion is very intimate. A law made by the legislature should conform to public opinion. Only then will it be obeyed by the people readily. If the legislature flouts public opinion, chaos and confusion will prevail in society. Initiative and referendum are modern devices which help to establish conformity between law and public opinion.

SUGGESTIVE QUESTIONS

1. Examine the advantages and disadvantages of party government. Is it possible to have a workable alternative to this in India?

2. Are political parties necessary in democracy ?

3. Write a short essay on one-party rule.

4. "Without the existence of political parties, the functioning of parliamentary government would be impossible." Comment.

5. How far is it correct to say that public opinion is neither public nor opinion ?

6. What is the relationship between public opinion and democracy ?

CHAPTER XX

LOCAL GOVERNMENT

Outline

Meaning of Local Government
Distinction between Local and Central Governments
Relation between Local and Central Governments
Advantages of Local Government

83. "The distinction between local and central governments lies partly in their relative constitutional positions and partly in the nature of public services performed." (*Leacock*). **Explain.**

Or

What do you understand by 'local self-government'? Discuss the relations between local and central governments.

(*Important*)

All of us know that the central government of a country rules over a wide territory operating from a single Centre or capital. Even the state or provincial government in a federation is a central government in that sense. For our convenience, we shall refer to the central government of whatever kind as a senior government in our discussion on local government.

MEANING OF LOCAL GOVERNMENT

Local government means the management of local affairs of a town or village by elected local bodies. There is no State, big or small, without its local bodies such as municipalities, district boards, village panchayats and the like. Local bodies, similar to these, are found almost in every State today, though they have different names and are organised differently.

We should be clear about the distinction between local government and local administration by officials of the senior government. In India, for example, the administration of a district is carried on by the Deputy Commissioner and other subordinate officials. The term local government does not stand for their administration. Local government means the administration of local affairs of small areas by the representatives of the inhabitants of those areas. In India, the term local self-government is generally used in place of local government. In some countries, local government is called municipal government.

Again, the state or provincial governments in a federation are often referred to as local governments. This can create some confusion. As stated above, the state government in a federation rules over a wide territory whereas local government in the true sense is a government of small areas. Moreover, the state government in a federal system derives its authority directly from the constitution, but local government is the creature of the state government.

DISTINCTION BETWEEN CENTRAL GOVERNMENT AND LOCAL GOVERNMENT

Local government differs from the senior government (*i.e.*, central government in a unitary State or state government in a federation) in two important respects, (*a*) its constitutional position ; (*b*) the nature of functions performed by it.

(*a*) Constitutional Position. Constitutionally, local government is the child of the senior government. Local bodies are generally brought into existence under a law passed by the senior government. They have to work within the sphere allotted to them under the law. The senior government can increase or decrease their powers if it likes. In a unitary State, like Britain, they derive their authority under a law passed by Parliament. In a federation, like India or America, they derive their powers from a law passed by the state legislature. All this means that local government is a subordinate government. It has no autonomy given by the Constitution. So far as its constitutional position is concerned, it is subject to the control of the senior government which may increase or decrease its powers or even abolish it.

(*b*) Functions. The real distinction between local and senior governments relates to the functions performed by them. The functions performed by the senior government of a country are those that concern the whole community or involve expenditure far beyond the means of local areas. For example, senior governments deal with such matters as defence, administration of justice, promotion of industries and agriculture, post and telegraph and so on. Local bodies perform functions which are of local interest. But it should be remembered that local bodies are not left free to do whatever they like in the local sphere. They can undertake only the things they are allowed or required to do under a law passed by the legislature of the appropriate senior government. Local government generally provides environmental, protective and personal or welfare services.

The aim of environmental services is to secure and improve the citizens' surroundings. These include roads, street lighting, provisions of amenities such as parks, recreation grounds, and so on.

Protective services include fire service, public health and sanitation. The personal services include child welfare, education (primary education, particularly), provision of and upkeep of libraries, museums and art galleries, hospital services, etc. The purpose of these services is to enable an individual to develop his physical, moral and mental capacities.

It is clear from above that the distinction between local and central government (senior government) lies partly in their relative constitutional positions and partly in the nature of services performed.

RELATION BETWEEN LOCAL AND SENIOR GOVERNMENTS

One of the most difficult problems of administration is : What should be the control of the senior government over the local bodies? It is now generally recognised that local bodies should be given a

large measure of autonomy in the administration of their affairs. Excessive control exercised by the senior government over local bodies kills local initiative and interest. The people case to take interest in their local affairs.

But this does not mean that local bodies should be granted complete freedom to go their own way. Some sort of control and supervision by the senior government is necessary. The right principle is that local interest and initiative should be combined with central supervision and co-ordination. Local self government cannot be unlimited. Certain restrictions and limitations must be recognised in the interest of the whole community. If certain functions are inefficiently performed by local bodies, they will have an injurious effect not only on the people of the locality but on the whole community. For example, subjects like public health and primary education are generally entrusted to local government, but their national importance is also great. Negligence on the part of local bodies may involve nation-wide repercussions.

Again, the senior government has to exercise some control over local bodies in order to prevent them from misusing the powers given to them. Moreover, some control must be exercised by the senior government over local bodies to secure effective co-operation between them, and to see that the policy laid down by it is fully carried out. But at the same time, it is necessary that this control should not be carried too far. It should not be so rigid as to destroy local initiative and interest.

The degree of central control over local bodies varies from State to State. In Great Britain and America, local governments have been given great freedom within the range of authority assigned to them by law. The central government in Great Britain does not meddle with the autonomy of the local bodies as long as the latter are within their legal bounds. But it does supervise the activities of local bodies. The control is generally exercised through grants-in-aid. The central government gives them money for various purposes and appoints its inspectors to see that the money is properly utilised. The central authorities do not undertake the work of local administration ; they only advise and inspect. The relationship resembles a partnership, an integration of effort, rather than one of command and subordination. Local government in Britain and the U S.A. is decentralised.

In France, the control of the central government over the local units is very rigid. French local bodies have not been given any freedom in the administration of their affairs, though they are given large powers of legislation. The administration of their affairs is in the hands of the officials appointed by the central government and they are responsible to it. Local units—the departments, arrondissements and communes—are mere administrative divisions and sub-divisions of the central government. They do not enjoy any autonomy. The local bodies have to act according to the wishes of the central government. The Prefect (*i.e.* the administrative officer of the department-- a local unit) and other officers of local bodies are the agents of the central government. "The Minister of Interior

of Paris presses a button—the Prefects, Sub-Prefects and Mayors do the rest. All the wires run to Paris" (*Munro*). Centralisation is the most important feature of the French system of local government.

POINTS AT A GLANCE

1. The term local government or local self government means the management of the affairs of a locality by the representative bodies of the local inhabitants.

2. The difference between local and central (senior) government lies partly in their relative constitutional positions and partly in the nature of public services performed. Constitutionally, local government is the creation of the senior government, and it performs only those functions which are of local interest. Its functions or services can be classified as environmental services, personal services and protective services.

3. The central government should not exercise excessive control over local bodies. The right principle is that local interest and initiative should be combined with central supervision and co-ordination.

84. "Successful democracy can rest on a vigorous system of local government." Discuss this statement bringing out the advantages of local government, and briefly mention those principles on which local government should be organised.

(*Important*)

Local government implies government of a locality by the representatives of the local inhabitants. It refers to the administration of villages, groups of villages, cities add districts by representative bodies. The senior government, whether it is the central government of a unitary State or is the state government in a federation, usually performs, such functions as require a uniform policy or involve expenditure which is beyond the means of localities or local areas. Thus the senior government in the modern State looks after defence, currency and banking, transport and communications, post and telegraph, police, justice and so on. Sanitation, public health, education, housing, etc., are generally put under the control of local government. With regard to such subjects, the senior government lays down a general policy and allows the different local bodies to carry out that policy in a way suited to the special needs of the locality concerned.

Advantages of local government are as follows :

The first advantage of local government is its educative value. Democracy is a government by the people. It can function properly when the people take an active and intelligent interest in public affairs. To allow them to cast their votes after four or five years for the senior government is not enough. Any government merely organised from above will not evoke any interest in the people. A centralised government will make a majority of people indifferent to public affairs. The best way of evoking the interest of the people is to organise a vigorous system of local government.

The system of local government produces another good result. It is not only the ordinary voters who learn to become shrewd judges of public questions. The persons who get elected to local bodies learn even more. In their frequent council and committee meetings they gradually acquire useful knowledge of public affairs. They become steadily experienced leaders. Local councils are, so to speak, the schools and colleges in which they learn the art of government. Many of finest leaders in Britain in modern times—famous Prime Ministers and Secretaries of State and other Ministers—began their public careers as comparatively obscure village or town councillors. A great democracy needs many leaders. A few persons are born leaders, but most leaders have to be made. So there must be provision for the training of hundreds of leaders. The system of local government is one of the principal means of giving them this education.

In short, successful democracy can rest on a vigorous system of local government. No national democracy can be sound unless it is supported by local democracy. National self-government would be incomplete, it would be crippled, without local self-government. Democracy, like charity, must begin at home.

Another advantage of the system of local government is that it reduces the pressure of work on the senior government. The modern State has to perform many functions. It is almost impracticable for the senior government to perform all the functions, unless it makes provision for some form of decentralisation. The modern State has become a welfare State. It has to look after defence, agriculture, education, public health, welfare and relief work, housing, transportation services, law and order and a number of other activities. Local government serves to relieve the senior government of a large part of its manifold responsibilities. The senior government can concentrate on matters of common interest covering the entire community, and local bodies can concentrate on matters of local interest.

Finally, it is not desirable that a single organisation located at the capital should attend to all the work that is necessary in the modern State. The needs of the people differ from place to place. The senior government cannot adequately appreciate the needs of different localities. These can be better understood by the residents of a particular locality, and can be better attended to by the local authorities. Laski says: "We cannot realise the full benefit of democratic government unless we begin by the admission that all problems are not central problems and that the result of problems not central in their incidence (effect) require decision at the place, and by the persons, where and on whom the incidence is most deeply felt."

ORGANISATION OF LOCAL GOVERNMENT

Local government will be useful only when it is organised properly. The following are some of the right principles relating to the organisation of local government

1. A small local legislature. Every local body should have a legislature. The number of members should be in Proportion to

the area they represent. All of them should be elected directly by the people of the locality on the basis of universal adult franchise.

2. **A small local executive.** Local bodies should also have a small executive which should be answerable for all its acts to the local legislature.

3. **Control by the senior government.** Local bodies should not be controlled by the senior government. Rigid control by the senior government kills all initiative and interest. The senior government should only supervise the work of local bodies. It should directly interfere only when they abuse or exceed their powers.

POINTS AT A GLANCE

1. The term 'local government' refers to the administration of local affairs by the representatives of the locality concerned.

2. Advantages of local government are :

(a) It trains the people in the art of democratic government.

(b) It diminishes the work of the senior government.

(c) It makes the administration of local affairs efficient.

3. Every local body should have a small legislature, a small executive, and the senior government should not interfere much in the work of local bodies.

SUGGESTIVE QUESTIONS

1. What are the broad lines of distinction between central and local governments ?

2. What should be the relationship between central and local governments ?

3. "The true foundations of national freedom must always rest on a democratic system of local self-government." Explain and discuss.

CHAPTER XXI

PURPOSE AND FUNCTIONS OF THE STATE

Outline

Purpose of the State
Particular Functions of the State
Limits to State Control

Nothing comes into existence without some end or purpose. In this chapter, we shall discuss the purpose of the State and the functions it should perform to achieve that purpose. We shall also discuss what things the State should not do.

85. What is the purpose or end of the State ?

Or

"After all, the State is not in itself an end but merely the means to an end." Discuss.

What is the purpose or aim for which the State came into existence and for which it continues to exist ? The problem of the purpose of the State is one of the most fundamental problems of Political Science.

THE STATE IS AN END IN ITSELF

The Greeks regarded the State as an end in itself, rather than a means to the realisation of an end. In other words, the ancient Greeks believed that the individual existed for the State, not the State for the individual. The State could regulate and control all the activities of the individual who could have no right apart from the collective rights of society.

In recent times, the Idealists have also expressed the same view. They idolize the State and raise it to the level of an end in itself. They say that the State is above criticism. The individual has no rights as distinct from the collective interests of society. The State can interfere in every detail of the life of the individual. The Indian Fascists and the German Nazis also held the same view about the State.

But modern political thought regards this view as mischievous and dangerous. It says that the State is a means to an end rather than an end in itself. It believes that to regard the State as an end in itself is to sacrifice the individual at the altar of the State. This is what actually happened in Germany under Hitler, and in Italy under Mussolini. The fact is that the State is only a means to an end. It has to justify its existence by the fulfilment of some definite purpose.

But what is the end ? Different views have been expressed regarding the end of the State. The ancient Greeks believed that the end of the State was the moral and intellectual, more than the material, development of the citizens of the State. Aristotle says that the State comes into existence for the sake of life and it continues for the

sake of good life. The ideal decribed by the ancient Greeks was a noble one. But they went so far as to say that a good citizen had to accept one single pattern of life laid down for him by the State. In this way, their philosophy raised the State to the level of an end in itself, irrespective of any purpose or end it had in view.

POWER—THE END OF THE STATE

There are thinkers who say that power is the chief aim of the State. They maintain that the freedom of the individual can be subordinated to this aim. Ancient Sparta, Napoleonic France and Fascist Italy are examples of States which made power their main aim. But this is an immoral view. Power no doubt is a criterion of the State, but it is not the essence of the State. The State uses force to check anti-social elements in society, but we cannot regard the State as a power-agency. If power is made the end of the State, the rulers will destroy everything good in life. They will deprive the people of their freedem. Human personality will be crushed. Moreover, no State which makes power its chief aim can last long. Such a State digs its own grave.

SERVICE—THE END OF THE STATE

The fact is that the State is a human association. Human beings have created it so that human personality may be preserved and promoted. The State is a service-agency. Its real purpose is to promote individual welfare and to satisfy the collective needs of society. Every individual has the right to a fair and equal opportunity to advance his own physical, economic, spiritual and cultural well-being and to share the benefits of civilisation. It is the duty of the State to promote this purpose in accordance with the maximum use of its resources and with due regard for the liberties of the individual.

CLASSIFICATION OF STATE FUNCTIONS

86. Discuss the functions of the State.

The functions of the State (or government through which the State works) cannot be stated in an absolute form. The functions of every State vary with the degree of political, social and economic development of its citizens. Today particularly among the under-developed States, it has been found necessary to increase the functions of the State beyond the purely protective or police functions. As a matter of fact, the conception of the 'Police State' has now been given up in favour of the 'Welfare State.' As a result, the old classification of the functions of the State as essential (functions which the State must perform) and optional (which the State may or may not perform) has become more or less obsolete. It is perhaps more useful to divide the functions of the State into three categories—protective or police, economic and regulatory, and welfare.

Functions

Police | Economic and regulatory | Welfare

Police or Protective Functions. These functions must be performed by all States at all times, at all places and at all costs. Without them the State cannot exist. The police functions are as follows :

1. Protection against external attacks. The State must protect its people and ensure their security against all foreign attacks by maintaining strong armed forces.

2. Protection against internal disorders, riots, etc. The State must preserve peace and order in the country and protect its people against all internal dangers like disorders, riots, revolutions, anti-social activities, etc. The State has to guarantee internal security to its citizens.

3. The State must maintain civil and criminal courts to administer justice and to punish offenders.

4. **Economic and Regulatory Functions.** Most of the States today are regulating the economic life of the people in order to promote national interests and to protect the home industry, the worker, the consumer and the investor.

Some of the economic functions of the State are as follows :—

1. **Regulation of Trade and Industry.** This implies looking after such things as coinage and control of currency; fixing of weights and measures and issuing of trade licences. The State has also to look after tariff problems in connection with imports and exports as well as regulate factory conditions, etc. Factory legislation has assumed great importance due to an enormous increase in labour. Regulation of hours of work and of conditions of employment is an important duty of the State. Laws are passed to prevent the employment of women and children in certain trades and occupations. Machinery has been set up in most States for the enforcement of labour laws and for the settlement of industrial disputes through arbitration and conciliation. The State regulates the working banks, financial houses and other money-lending institutions.

2. **Maintenance of Public Works and Services.** This includes the management of such services as posts and telegraphs, railways, air services, building and maintenance of roads, water and gas supply, etc. These services if left to private individuals will either be not performed at all or may be performed in an unsatisfactory way.

3. **Control over Distribution of Wealth.** The State tries to exercise some control over the distribution of wealth in the interest of social justice. This is done partly by regulating profits and wages and partly by having an effective system of taxation. The income from taxes is utilised to a certain extent in conferring benefits on the poor sections of the society in the form of old age pensions, free hospitals, free libraries, etc.

4. **Nationalisation.** On the question of nationalisation of the means of production there is still wide divergence of opinion,

but the general trend is that the State should at least own and manage certain basic industries.

Welfare Functions. In the third category are the welfare functions which the State is performing in almost all advanced countries of the world. Some of the welfare services are as follows :

Education. It is now generally recognised that it is an important duty of the State to provide educational facilities to the people. Education is 'the key-stone of the arch of good life.' An illiterate individual cannot play a useful part in society. Every progressive State, therefore, makes provision for a comprehensive system of education, basic and higher, general and technical for its people. The Indian Constitution aims at free and compulsory education till the age of 14. The State must also promote art, science and culture.

Public Health. The happiness and prosperity of a nation depends on the physical fitness of the people. So the State undertakes a number of activities to safeguard the health of the people. The State maintains and subsidises hospitals, clinics, etc., for the treatment of diseases, and takes various measures to prevent the outbreak of epidemics.

Social Security. Every progressive State today endeavours to provide old age pensions, unemployment allowances, and other benefits to its people.

Social Reform. The State carries out social reforms by means of laws. In India, the government is trying to enforce prohibition and to abolish untouchability. It has passed a law to regulate marriage and divorce.

POINTS AT A GLANCE

Functions of the State vary in different countries according to the condition of the people residing there. The functions are classified as police, economic and welfare functions.

Police Functions :

1. *Protection against external attacks.*
2. *Protection against internal disorders, riots, etc.*
3. *Justice.*

Economic Functions :

1. *Regulation of trade and industry.*
2. *Maintenance of public works.*
3. *Control over distribution of wealth.*
4. *Nationalisation.*

Welfare Functions :

(a) *Education,* (b) *Public Health,* (c) *Social Security, and* (d) *Social Reform.*

87. What, in your view, are the limits to State action? Give reasons for your answer.

The Modern State is no longer a police State. It has become a welfare State. The negative or police State is now only a memory. The function of the government, the machinery of the State, is not only to maintain peace and order and provide protection to the people but also to promote their welfare through positive measures. The old controversy between individualism and socialism has almost ended now. Modern States are carrying on a number of activities which are of a socialistic nature. They are playing an increasingly important role in the sphere of health, education, industry, agriculture and the like.

Here one question presents itself. Is the modern State justified in interfering in every sphere of life? Or, are there any limits to political control? It must be admitted that it is not easy to answer this question. We can, however, lay down a general principle governing State action. The principle is that State intervention should be clearly shown to be in common interest. It must be proved that limitation of the freedom of the individual would help ultimately to secure for him more freedom than non-interference would guarantee. There are certain spheres of life where State intervention does more harm than good. It is generally recognised that the State, as far as possible, should not interfere in the following spheres:

First: The State must guarantee certain fundamental rights to its citizens as without these rights human personality cannot grow to its full flowering. These rights include freedom of speech and expression, freedom of association, etc. The government must not interfere in these rights of the individual. The Constitution of a democratic State always guarntees such rights.

Second: The State must not interfere in religious matters. It must be neutral in this sphere. Religion is a private affair. Compulsory religion is a contradiction in terms. Beliefs can be neither enforced nor prohibited. Most of the States today are secular. For example, the Constitution of India guarantees religious freedom to every citizen of India. Except when it is in the interest of public order, morality and health, or other conditions, all persons are entitled to freedom of conscience and the right to profess, practise and propagate religion freely.

Third: The State must not prescribe morality. Morality, like religion, is something subjective, inward. "The ethical appeal is always to the individual's own sense of what is right and wrong, in the last resort always to his sense of what is good and evil." (MacIver). Morality always implies choice. If all moral obligations are changed into legal obligations, morality will be destroyed.

Fourth: The State must not exercise a rigid control over culture which is the expression of the spirit of the people. Art, literature, music, etc., must remain beyond the control of the great engine of the State. It may encourage art, literature, etc., but it must not control them rigidly.

Fifth: The State must respect family life. It must not interfere in private family affairs. The relations between husband

and wife and between parents and children should not and cannot be controlled by the State.

The boundaries of political power must be clearly understood. They have assumed great importance today. We are today living in the age of totalitarian States. The totalitarian States, whether of the left (Communist States) or of the right, control everything. They have imposed rigid restrictions on opinion, religion, morality, culture, etc. The citizens of these States have no freedom at all. A totalitarian State is the foe of human progress.

POINTS AT A GLANCE

1. The conflict between individualism and socialism has lost much of its old sharpness. The modern State has become a welfare State. It is playing a positive role in the lives of the people.

2. Still, there are certain limits to political control. The State action must be clearly shown to be in common interest. It must be proved that curtailment of the liberty of the individual would ultimately enlarge the sphere of his freedom.

3. Ordinarily, the State must not control opinion (freedom of thought and expression, etc.), religion, morality, culture and family life. If the State interferes too much in these spheres, an individual will feel frustrated. His personality cannot grow.

CHAPTER XXII

CONTEMPORARY POLITICAL THEORIES (INDIVIDUALISM, SOCIALISM AND MODERN INDIVIDUALISM)

Outline

Meaning of Individualism
Comments on the Theory
Meaning of Socialism
Comments
Modern Individualism

There are many theories dealing with the question of the functions of the State or the scope of State activity. In this chapter, we shall discuss three important theories—Individualism, Socialism and modern Individualism.

88. "The State can best further the happiness of individuals by interfering in their personal affairs as little as possible." Discuss.

Or

"The sole duty of government is to protect the individuals from violence and fraud."

Or

Discuss critically the basic principles of Individualism.

(V. Important)

Individualism deals with the sphere of State activity, *i.e.*, the functions of the State. It says that the State should leave alone the individual, and that its functions should be restricted to the absolute minimum. That government is the best which govern the least. The theory has also been called the theory of *laissez-faire* which means: "Leave things alone."

Individualism holds that human personality can be best preserved and promoted by giving the individual the largest measure of freedom. The theory assumes that every restraint imposed by the State on the individual curtails his liberty and is, as such, an evil. Another assumption on which this theory is based is that every individual knows his interests best. The State should, therefore, stand aloof and allow the individual free scope for his capacities and interests. The State cannot, of course, be abolished because man is selfish and to check his selfish and criminal tendencies the presence of the State is necessary. So, the State should be regarded as a necessary evil. It is desirable to have as little of it as possible.

The State should be restricted to mere police functions, *i.e.*, preservation of internal peace and security, and defence against external aggression. The sphere of State activity will be "negatively regulative," only to protect and restrain, not to foster and promote." Other functions such as education, poor relief, medical

aid, regulation of industry and agriculture, etc., will be outside its jurisdiction.

This theory was stated systematically by Adam Smith in his book 'Wealth of Nations', published in 1776. He said that the State must not interfere in the economic life of the people. His views had a great influence on the economic thought of those days. J. S. Mill was another important supporter of this theory. He expounded admirably the philosophy of this theory in his book 'On Liberty'. However, it was Herbert Spencer who stated this theory in its extreme and most uncompromising form.

The following arguments have been advanced in support of the theory :

1. **Ethical Argument.** It has been asserted that an individual can develop his personality only in an atmosphere of freedom. His potentialities can grow and develop to their maximum possible if he is left to himself. State interference will kill his power of initiative, self-reliance and sense of responsibility. The harmonious development of his faculties will be checked, resulting in a stunted personality. Competition brings out the best in the individual and results in the development of human personality and social progress.

2. **Economic Argument.** It is said that trade and industry can develop only in an atmosphere of free competition. The operation of the law of supply and demand will ensure the maximum production of goods, and keep down their prices. The capitalist will invest his capital in the most profitable industries ; the customer will buy in the cheapest market ; and the labourer will work where he gets the maximum wage. Thus, all the sections of society will benefit from free operation of economic forces. State interference, regulation of trade and industry, and government management are harmful to the economic progress of the country.

3. **Biological Argument.** It has been said that Individualism is in accord with the theory of of evolution. The course of evolution reveals that it is dominated by the struggle for existence leading to the extinction of the weaker species and the survival of the fittest. The same law must also operate in human life. It will be for the betterment of society if the weaker and unfit elements disappear. According to Herbert Spencer, the poor and the infirm do not deserve our sympathy. Extending sympathy to them will be against the law of nature. If the State lends a helping hand to the individual in the struggle for existence, it will lead to the survival of the unfit.

The result of this will be that social progress will suffer.

4. **Historical Argument.** Finally, Individualists make an appeal to history, and say that the State has bungled whenever it tried to interfere in the economic life of the people. Governments do things badly, there is red tape, nepotism and less efficiency.

COMMENTS

For some time, the Individualist theory was very popular, and it determined the sphere of government activity in many countries

Very soon, however, its defects became evident to all, and its assumptions and arguments were severely criticised by its opponents.

1. The theory assumes man to be essentially selfish. But it is not a correct view of man's nature. He may behave selfishly on certain occasions, but he is guided by other motives also. Love, sympathy, generosity, spirit of sacrifice and co-operation play an important part in his life.

2. Again, the assumption that man is always the best judge of his own interests is not correct. Most individuals are not able to judge their true interests in matters relating to education, health, etc. Very often, the vision of the individual is limited and the State has to look after him. Can it be seriously said that an ill-fed, ill-housed and ill-clothed slum dweller knows and realises what his best interests are ?

3. The Individualists have a wrong conception of liberty. The assumption that every restraint curtails liberty is wrong. Unrestrained freedom will lead to an intolerable situation where the strong will dominate the weak. The State has to make laws to ensure liberty for all. Indeed, law is the condition of liberty.

4. It is true that human personality develops best in a free atmosphere But a harmonious personality also implies characteristics of discipline and restraint. True freedom is, of course, disciplined freedom. By regulating social life, the State provides an atmosphere which is conducive to the development of personality. Moreover, an individual can develop his personality when he gets adequate opportunities in life. How can a miserably poor person develop his personality and exercise his initiative when he is mad with anxiety for the future ?

5, Free competition in the economic sphere has led to many evils. It has meant cut-throat competition, production of shoddy goods, starvation of workers, spread of diseases, and economic crises. It has thus resulted in misery for millions.

6 The law of the survival of the fittest may be tenable in the animal world but it does not explain the realities of human life. Human beings are actuated by many tender feelings and emotions, and they will always show sympathy and understanding to the weak and the infirm. Moreover, acceptance of this law will put a premium upon (encourage) dishonestly and immorality. A dishonest but successful person will be praised whereas a poor but honest person will become an object of condemnation. Animals are at the mercy of their environment, and are moulded by it, but weak and poor persons when added by the State can become useful members of society. The doctrine of the 'survival of the fittest' is inhuman and has no relevance to human society.

7. In some cases, the State may have managed economic undertakings rather inefficiently, but the general experience is quite the opposite. Many vast undertakings like the railways, post and telegraph, roadways, etc , have been managed efficiently by the State and to the satisfaction of all.

This theory was very popular in the 19th century. But now it has been given up because it suffers from certain serious defects. There are many holes in the assumptions on which the theory is based. The arguments put forward in support of this theory are weak. It cannot suit the modern age which is industrial in character. Workers and consumers all need protection against capitalists. Modern life has become very complex, and it is necessary that the State should perform all those functions which are likely to promote the welfare of the people.

It can be said in favour of this theory that it emphasizes some useful truths. There is no doubt that excessive State interference hampers the growth of the individual. The State should intervene when its intervention is likely to promote common good. In the 18th century, governments had a tendency of interfering too much in the day-to-day life of the people. This theory helped in checking that tendency.

POINTS AT A GLANCE

Individualism means that the individual should be left alone to do what he likes, and the State should interfere the least in his affairs.

Assumptions which form the basis of the theory :

1. Man is selfish and the State is a necessary evil, since its laws curtail individual liberty.

2. The individual is the best judge of his interests. So he should be given free scope for his capacities.

Arguments :

1. Ethical argument. An individual can best develop his personality in an atmosphere of freedom.

2. Economic argument. Free competition results in the best development of trade and industry.

3. Biological argument. The theory of evolution reveals that the weaker species perish and the fittest survive. Likewise, in society the unfit elements should be extinct and the strong should survive. Any sympathy with the weaklings is against the law of nature.

4. Historical argument. Private enterprise has proved more successful than the State-managed activities.

Criticism of the theory :

1. The theory assumes man to be essentially selfish, which is wrong.

2. Man is not always the best judge of his interests.

3. The theory takes a wrong view of liberty.

4. The theory eliminates discipline and restraint which are so essential to the harmonious development of personality. Moreover, development of human personality depends on provision of adequate opportunities to the individual.

6. *Free competition has been responsible for many evils in the economic sphere.*

6. *The law of the survival of the fittest if applied to human life will encourage dishonesty and immorality.*

7. *The State has not always managed economic undertakings inefficiently, rather it is the reverse.*

8. *There was a time when the theory was popular and served a useful purpose, but under the present conditions it is not acceptable.*

SOCIALISM (OR DEMOCRATIC COLLECTIVISM)

89. Compare and contrast the Individualist with the Socialist view of State action. Which do you regard as more conducive to general welfare under modern conditions?

Or

Discuss the main principles and methods of State Socialism or Collectivism. (*V. Important*)

It is difficult to define Socialism briefly and clearly. It is used both in a wide and in a narrow sense. Its advocates are so numerous that "it is like a hat which has lost its shape, because everybody wears it." To quote Ramsay Muir: "It is a chameleon-like creed. It changes its colour according to environments" In the broad sense the Guild Socialists, the Syndicalists and the Communists are all Socialists, however much they may differ regarding their aims and methods. In a narrow sense, it is known as Collectivism or State Socialism. In this question, we are concerned with the latter use. Socialism in this sense is diametrically opposed to Individualism.

INDIVIDUALIST VIEWPOINT

The essence of Individualism is that the State should interfere as little as possible in the affairs of the people. According to the Individualists, the government that governs the least is the best. They believe that the State is a necessary evil. It is necessary because man by nature is selfish and criminal and the existence of the State is necessary to prevent him from committing crimes. It is an evil because every law means curtailment of individual liberty. So the Individualists say that the State should be nothing more than a policeman. It should maintain peace and order within and defend the country against foreign aggression. It should not interfere in the social, moral, cultural and economic affairs of the people. Every individual knows his interests best and the greatest happiness of the greatest number can be achieved by leaving the individual to himself.

In the economic sphere also, the Individualists say, this policy (the Individualist policy) will be very useful. If everyone is allowed to use his business talent, capital, labour, etc., in the way he likes, he would be able to produce the maximum which would be in the interest of all.

SOCIALIST VIEWPOINT

The Socialists do not agree with the Individualists that the State is a necessary evil. They believe that the State is a positive good.

It should perform as many functions as are necessary for general welfare. It should promote the economic, intellectual and moral interests of its citizens, and not confine itself to police functions only. Particularly, the State should take over the ownership and management of the means of production from private hands. We may define Socialism (State Socialism or Collectivism) as a theory that aims to abolish exploitation by means of the collective ownership and democratic management of the basic instruments of production and distribution. In simple words, this means that all important industries and services should be run by a democratic government for the benefit of the entire society. Socialism, it should be remembered, does not stand for complete abolition of private property; it aims at the abolition of private ownership of the means of produciion.

Socialists put forward the following arguments to support their views:

I. Capitalism gives rise to serious inequalities of wealth among the citizens of the State. Under it, wealth concentrates in a few hands. The rich become richer and the poor poorer. The majority of the people have a hard lot. They lead a miserable and hopeless life. They suffer from all the disadvantages that poverty entails.

Capitalism, in the first place, stands in the way of democratic ideals. The rich manage to control the political machinery of the State and use it in their own interest. Political democracy without economic democracy is unreal. The Socialists do not stand for absolute equality which is neither desirable nor possible. What they want is that everybody should enjoy reasonable opportunities in life. They aim at the removal of extreme inequalities. In other words, the Socialists want to exterminate the conditions of inequalities in which some persons 'live without working and others work without living.' A poor man struggling for his bare existence cannot hope to have any share in the political power. Experience shows that in the world of today political power goes to those persons who have the economic power. As long as the means of production are privately owned and wealth concentrated in a few hands, there can be no real political freedom for the masses and therefore no true democracy. The only way to have real democracy is to eliminate private property (private ownership of the means of production). In this sense, Socialism is an application of the democratic principles to economic life. It is recognised that the right to vote should be given to all, but this right will be real only when this ideal of equality is extended to the economic sphere also.

Further, serious inequalities of wealth mean under-nourishment and lack of educational and cultural facilities for the majority of the people.

Another disadvantage is that enormous differences in the wealth possessed by the different sections of the society undermine the stability of the State. Poverty of the masses breeds revolutions.

In short, equality is the key-note of Socialism.

2. The second allegation levelled against capitalism is that it is inefficient in its working. There is no economic planning under it. Over-production and production of unnecessary commodities are the common features of the capitalist system. A capitalist will not go in for that type of production which is socially necessary, if it does not fetch him a good deal of profit. He will not mind putting dangerous goods in the market if he expects a decent return from them. His principle is production for personal profit and not for social benefit. Workers enjoy no security under capitalism. This is the direct result of the wage system. A capitalist will pay the worker wages only when it is profitable for him to employ his labour. We often hear about economic depression and crises under capitalism, which result in general misery and unemployment.

3. The capitalist system is unjust. The worker gets much less than what he deserves. The capitalist gives the worker just enough to live. What he gives to the worker is never the equivalent of what he produces. The whole of the surplus value (the differences between the sale price of a commodity and its cost price) is appropriated by the capitalist. Justice demands that the surplus value should be distributed between all those who create it.

4. It is generally said that Socialism will crush individual freedom. But the Socialists reply that their creed will create more real freedom for the individual. Socialism will free the individual from want and starvation and will thereby provide him with greater opportunities for political and cultural activities.

METHODS

The Socialists believe in democratic and evolutionary methods. They would try to bring about the necessary changes in the present economic and political structure peacefully and gradually. A political party, having a socialist programme, would be organised. It would spread socialistic ideas among the people by education and propaganda. It would try to win support of the voters on the basis of its programme, and when in power it would pass laws putting its programme, into practice.

The principles and methods of Collectivism are best explained by referring to the aims and methods of the English school of Collectivism, known as Fabian Socialism. The Fabian Society was founded in 1884 and many distinguished intellectuals like G. B. Shaw, Sidney and Beatrice Webb and others were its members. The name of this society is associated with the name of the Roman general, Fabius, who adopted steady and delaying methods of undermining the enemy's strength.

Following the tactics of Fabius, the English Collectivists wanted to bring about a socialistic society gradually by spreading socialistic ideas among the citizens through education and propaganda. They believed that in course of time, Socialism would become popular enough to win a majority for the Socialists in Parliament, and they would be able to put their programme into practice. India is also following this method.

COMMENTS

Of the two views, the socialist view is more conducive to general welfare under modern conditions. The State is a positive good and it should undertake all those functions which are necessary for the welfare of the people. The philosophy of *laissez-faire* cannot suit the modern industrial age. The superiority of Collectivism is clear from the fact that it has exercised deep influence on the policies of every State. Today every State is interfering in economic and industrial affairs where public welfare is involved. It also owns and controls certain industries and services which are of national importance. The posts and telegraphs, railways, forests, manufacture of arms and ammunition, minings, etc., are now being entirely controlled and looked after by the government in many countries today. The State is spending huge sums of money on education, poor relief, unemployment insurance, and other such activities. The trend of every State today is definitely towards **Collectivism or Socialism.**

But critics argue that the Socialists over-estimate the efficiency and the capacity of the State. It is difficult for the State to control all the means of production and distribution. Complete control of all industries will result in inefficiency. Moreover, men would not work efficiently without the profit motive, and therefore production would fall and there would be general poverty instead of general wealth. Again Socialism would result in the restriction of individual liberty. Life of the people would be too much regulated by the **official of the government.**

As a matter of fact, the controversy between Individualism and Socialism has now become out of date. As we have said above, today all States are moving towards Socialism. The days of hundred per cent Individualism are gone for ever. People everywhere expect that the State will actively promote their welfare and that it will play a positive role in their life. To quote an eminent writer : "The question is no longer : shall the government intervene ? It has intervened. The question is : how far and over what field ?"

POINTS AT A GLANCE

1. Collectivism or State Socialism is diametrically opposed to ***Individualism.***

2. The Individualists maintain that the State should perform only police functions. On the other hand, the Collectivists or Socialists believe that the State is a positive good and it should own and control the means of production, and take up all those functions which are essential for ***general welfare.***

3. Collectivism believes in democratic and evolutionary methods to bring about the necessary economic and political changes.

4. The Socialists or Collectivist view is very popular today. The States today are definitely moving towards Socialism. But many writers are of the opinion that the State should follow the middle-of-the-road policy. It should own and entirely control all those industries which are of national importance, and which cannot be run and managed

property by private individuals. But it should also encourage private initiative. This does not mean that the State should not interfere in the affairs of private industries. It must intervene in their affairs if public welfare demands its intervention.

MODERN INDIVIDUALISM

90. Write a short note on modern Individualism. How does it differ from Individualism of the nineteenth century?

Towards the close of the 19th century, there started a strong reaction against Individualism because it could not protect the workers from the evils of capitalism. Women and children were made to work for long hours. The workers were exploited by the capitalists. So, the people began to demand that the State must interfere in economic, social and other matters. As a result of this, political thought began to be influenced by Idealist and Collectivist theories. Functions and powers of the State grew enormously. The government began to interfere in every sphere of life. Consequently, political thinkers began to criticise the growing power of the State. They preached a new form of Individualism -modern Individualism. Norman Angells and Graham Wallas were among its chief advocates. "The reaction against Individualism has produced a reaction in its turn. The wheel has turned full circle and the present dissatisfaction with the state has promoted a revival of Individualist thinking akin in spirit, though not in form, to the Individualism of the the 19th century." (Joad).

MEANING OF MODERN INDIVIDUALISM

Modern Individualism stands for certain modern tendencies which show a reaction against Idealism, Collectivism and the rule of the majority. It challenges the supremacy given to the State by the Idealists. It does not agree with them that 'the State is the march of God on earth' and that individuals are nothing. It is against Collectivism because it increases the powers of the bureaucracy, and diminishes individual liberty. Its quarrel with the modern democracy is that it is nothing but the rule of the tyrannical majority, in which the interests of minorities and individuals are ignored. It says that representative democracy that we have today is no guarantee of the happiness of all citizens

The following are the factors responsible for the growth of modern Individualism :

1. The strength of voluntary associations is increasing day by day. Economic, moral, social and other associations are playing an important part in the life of the individual who feels they are essential for the satisfaction of his needs and for the development of his personality. Such associations have gradually eliminated to a great extent the State from the private spheres of the individual's life. These associations are instinctive to man. They are not the creation of the State. 'The growth of such associations has tended to make men think of the State as just one, and not always the most important one, of the various bodies to which the individual may belong.' The State is in no way superior to them. It cannot

have superior claim to the individual's allegiance. The only difference between the State and other associations is that we become members of the State out of compulsion whereas our membership of other associations is voluntary or optional. In short, these associations have undermined the individual's allegiance to the State, and have shown that the functions and powers of the State must be decentralised.

2. During the war, or as a result of Collectivist regime, the State encroaches heavily upon individual liberty, and produces a feeling of hostility towards it. During the First World War, governments enjoyed immense powers and [illegible]. [illegible] bureaucrats interfered too much in the day-to-day life of the individual. Heavy taxes were imposed on the people. So, after the war the people began to emphasise the importance of voluntary associations and demanded reduction in the powers of the State.

3. The achievements of democracy are generally below its hopes and promises. The irresponsible way in which the majority behaves towards the minorities has produced a reaction against it. Modern Individualists believe that democracy has led to nothing but a tyrannical rule of the majority. Moreover, it does not represent the real will of the masses who are deceived at the time of elections by unprincipled leaders and demagogues. It is therefore not proper to give all powers to the majority of the moment under the name of the State. The powers and functions of the State should be decentralised.

EXPONENTS OF MODERN INDIVIDUALISM

According to the modern Individualists, the State is only a federation of groups. It is not an association of individuals. It is only a piece of administrative machinery to co-ordinate the activities of different groups and associations. It is only one of the many associations and it is in no way superior to other associations. The individual owes allegiance not only to the State but to all the associations of which he is a member. The State is not indispensable. Norman Angell, an advocate of this theory, says that the State is only a piece of administrative mechanism which can be superseded whenever a suitable machinery to advance men's interests is evolved.

Graham Wallas, another exponent of this theory, speaks about the problem of representative democracy. He says that 'the transference of the means of production from private to social ownership, advocated by the State Socialists, is of no value unless the public body that is to administer them is representative of the society that owns them.' He opines that the modern centralised State with a parliament to control everything cannot represent popular will. Under the present system, the voters are hypnotised by the popular press and drugged by unscrupulous demagogues. He proposes that the way out of this difficulty is to place representation on vocational basis. He says that the 'electorate should be divided into groups on vocational basis, and that each group should elect members to a second chamber which would be composed entirely of repre-

of the different trades and professions. A lower chamber would be returned, elected on a purely geographical basis.'

DIFFERENCE BETWEEN 19TH CENTURY INDIVIDUALISM AND MODERN INDIVIDUALISM

It is clear from above that the attitude of the modern Individuals to the State is not very much different from that of the Pluralists. But it does differ from the 19th century Individualism as expounded by Mill, was to safeguard the personal liberty by reducing the functions and powers of the State. Modern Individualism has also the same aim. But it differs from the 19th century Individualism in the sense that it lays emphasis on the group rather than on the individual. The old Individualism failed to protect the individual against exploitation of the capitalist and the tyranny of the majority rule. Modern Individualism claims that groups or associations will protect the individual against the oppression of the majority, and will promote economic and other interests that their members have in common.

POINTS AT A GLANCE

1. Modern Individualism stands for certain modern tendencies which show a reaction against Idealism, Collectivism and democracy (majority rule).

2. Increasing influence of associations, excessive authority exercised by the State during the war and the rule of tyrannical majority are responsible for the growth of modern Individualism.

3. It believes that the State is only a federation of groups and its functions and powers must be decentralised. Norman Angell and Graham Wallas are among its chief advocates.

4. It differs from the old Individualism in regarding the group and not the individual of its unit for political purposes.

SUGGESTIVE QUESTIONS

1. Discuss the Socialist's case for the extension of the functions of government.

2. "The best government is that which governs the least." Discuss this statement critically.

3. "We are all Socialists now." Discuss this statement with reference to the functions of the modern State.

4. "The key note of Individualism is liberty, the key-note of Socialism is equality." Discuss this statement.

CHAPTER XXIII

CONTEMPORARY POLITICAL THEORIES (SYNDICALISM AND GUILD SOCIALISM)

Outline

Introduction
Syndicalism
Guild Socialism

As we have said in the preceding chapter, it is not easy to give a clear-cut definition of Socialism. Socialists themselves do not agree with one another regarding their aims and methods. Advocates of Socialism are so numerous that it "is like a hat that has lost its shape, because everybody wears it." (Joad). Ramsay Muir says: "It is a chameleon-like creed. It changes its colour according to its environments." Another writer, while describing the different forms of Socialism, points out: "It has as many heads as a hydra and while you are engaged in cutting one, another springs up in its place." We hear about many forms of Socialism—State Socialism or Collectivism, Guild Socialism, Syndicalism, Communism, and so on. It is too vague to admit of any workable definition.

Anyhow, we can describe Socialism in general terms. Its essential feature is that all important industries, land, mines, etc., should not be in private hands. The present society in which we live consists of two classes—the working class and the capitalist class. The capitalist class is the owner of the means of production, natural and man-made, such as machines, lands, mines, etc., and employs others to work on them, and makes profits without producing anything itself. It lives in luxury and idleness. On the other hand, the workers who produce wealth lead a miserable and hopeless life. Socialists of all brands are opposed to the private ownership of the means of production. They believe that private property is the root cause of all evils that we witness in society today. They accuse capitalism of creating serious inequalities of wealth, of being inefficient in its working, and of being unjust.

All of them agree that these defects in our society arise from one root cause—private ownership of the means of production and the desire for private profit. So they would abolish private ownership of the means of production. But they do not agree with one another regarding the exact form of their new ideal society and the methods of achieving it. Modern socialistic thought is usually divided into four groups—Collectivism or State Socialism, Guild Socialism, Syndicalism and Communism. The Collectivists and the Guild Socialists believe in constitutional and evolutionary methods to bring about the desired change while the Syndicalists and Communists resort to violent and direct methods. We have already discussed Collectivism or State Socialism in the previous chapter. In this chapter, we shall discuss Syndicalism and Guild Socialism.

SYNDICALISM

91. Describe the political theory associated with the name of George Sorel.

Or

"Syndicalism is anti-democratic, anti-rational and anti-intellectual." Discuss.

Syndicalism is a brand of revolutionary Socialism. It had its origin in France. It is derived from the French word, *Syndicat*, meaning a trade union. This term is defined as "*that form of social theory which regards the trade union organisations as at once the foundation of the new society and the instrument whereby it is to be brought into being*." George Sorel is its chief advocate. The following are the main points of this theory.

First, the Syndicalists say that workers are the real producers of wealth. They have no voice in the management of industry. 'Their skill is purchased at a price, like any commodity. Their value is measured not as human beings, but as mere cost of production. These are the natural consequences of capitalism under which the ownership of the means of production enables the ruling class to deprive the workers of their rightful rewards. The workers have therefore, to unite to liquidate their oppressors. There is an inherent conflict between labour and capital, and the workers must be prepared for a class struggle against the capitalists.

Secondly, Syndicalism is anti-State. It believes that the State is a political organisation of the capitalists, even under democracy. It does not agree with Collectivism that ownership of the means of production should be vested in the State. It has no faith in the State. It believes that the workers and not the State should control the means of production. Trade unions will manage the means of production on behalf of society. The State, they say, is a bourgeois and middle class organisation. It is an agency for protecting the interests of the dominant economic group (the capitalists). It must be abolished. Because of its hostility to the State and its desire to abolish it completely, Syndicalism is sometimes described as an 'organised Anarchy' or Anarcho-Syndicalism. Both Anarchism and Syndicalism regard the State as an unnecessary evil and demand its total abolition. The Syndicalist society is to be a loose federation of free economic and industrial associations of workers and peasants who would control all the means of production. The Anarchists have also the same aim. So the dividing line between Syndicalism and Anarchism is very thin.

Thirdly, Syndicalism is anti-rationalism and anti-intellectual. It is a rank-and-file movement. It is the only school of Socialism which is completely the product of the workers themselves. It has no faith in the leaders of the middle class. The syndicalists say that other forms of Socialism are based on the philosophy laid down by the intellectuals of the middle class. Such intellectuals remain out of touch with the workers. They cannot be relied upon. The Syndicalists denounce even Marx as he belonged to the middle class. They deliberately refuse to paint the picture of the society

they want to bring into existence. Only this much is clear that after the overthrow of the State and capitalism the social structure would be a loose federation of autonomous labour unions. Such unions would become the focal point of economic, social and cultural life. There will not be any political State in the ordinary sense of the term. The Syndicalists do not even try to give us the details of their ideal. They are proud of their irrationality and boast that their function is to act and not to argue. Syndicalism is thus anti-intellectual and anti-rational.

METHODS

The Syndicalists do not agree with the State Socialists regarding the method to destroy the existing order and to bring about a new one. The Collectivists or State Socialists believe in constitutional and democratic methods to achieve their aims. But the Syndicalists are anti-democratic in the sense that they hate such methods. They have no faith in the use of the ballot-box to obtain a parliamentary majority. They believe that political and constitutional methods kill class consciousness and the revolutionary spirit of the workers. The methods advocated by them are strike, sabotage, boycott and so on. They attach the greatest importance to strikes. A strike may be confined to a single factory or industry, or it may be general. By the general strike they mean a strike on the part of a large number of workers in the major or key industries. This type of strike will cripple industry, and the society will be compelled to feel the force of the workers' will. Strikes in single factories or industries are useful in preparing the workers for the general strike. Sabotage means wilful neglect of work causing damage to goods, machinery, etc. Boycott may take different forms such as spreading false rumours, disclosing trade secrets, disparagement (to belittle) of goods openly, and so on.

French Syndicalists believed that patriotism had no meaning for a worker. The national tradition and its intellectual and moral heritage were not meant for him. They, therefore, opposed militarism. They carried on propaganda in the army. They preached international peace and advocated disarmament. The hostility of the Syndicalists towards the army was largely due to the fact that the French troops were often used to crush their strikes.

COMMENTS

Though Syndicalism was French in origin, it did influence labour movement in other countries also. But the Syndicalist movement is too aggressive and its ideal too vague to be popular. The aggressive and revolutionary form of Syndicalism disappeared even from France after the First Great War. The following are the main objections against the ideal and methods of Syndicalism.

1. The Syndicalists ignore completely the interests of the consumers. It represents only one side of the picture. There is no guarantee that the producers (workers) would not use their position and power to the disadvantage of the consumers. They may be guilty of the same faults for which the capitalists are condemned today.

2. The ideal they advocate is very vague. They do not tell us clearly what the exact shape of the new society will be.

3. The direct method advocated by them cannot be approved of. Constitutional methods can prove more effective than violent and direct methods. They will contribute to the strength and solidarity of the workers. On the other hand, violent methods and strikes cannot produce useful results. Unsuccessful strikes may demoralise the workers and undermine their strength.

POINTS AT A GLANCE

1) Syndicalism is a form of revolutionary Socialism. It is essentially a French movement.

2) The Syndicalists have no faith in the State. It cannot, they maintain, protect the workers' interests ; so it must go. The Syndicalist society will be a Stateless society in which industry will be controlled by the workers.

3. Syndicalism is anti-intellectual and anti-rational.

4. The Syndicalists have no faith in democratic and constitutional methods. Their slogan is 'direct action'.

5. The theory does not enjoy any support these days. It is too vague and aggressive to be popular.

GUILD SOCIALISM

92. "The Collectivists looked to the State as the rock of their salvation ; the Guild Socialists, realising that for this as for most purposes the State was but a broken reed, and in the great class struggle no better than an enemy agent, looked for deliverance to the trade unions, the organisations of the workers as producers." Compare Guild Socialism with Collectivism.

Or

What are the main features of Guild Socialism.

Or

"Guild Socialism is an attempt to reconcile the Syndicalist idea of special producers' interest with the political idea of general or public interest." Discuss.

Or

"Guild Socialism is a half way house between Collectivism and Syndicalism." Discuss.

If Syndicalism is the child of France, Guild Socialism is essentially a British product. It came into being during the first decade of the 20th century. The movement was begun by an architect, A. J. Penty. It had among its supporters S. G. Hobson and G. D. H. Cole. The following are the main points of this theory :—

First, Guild Socialism has a middle position between Collectivism on the one hand and Syndicalism on the other. Syndicalism was too aggressive and extreme in character to suit the British people who are so accustomed to democratic principles and traditions. Only the valuable points in the doctrine of the Syndicalists have been absorbed

by Guild Socialism. It is opposed to Collectivism which lays down that ownership of the means of production should be vested in the State. It maintains that the State cannot perform both political and economic functions efficiently. 'State ownership and operation of the means of production and distribution would devolve everything into the hands of professional politicians and bureaucrats who, as a ruling class, would exploit the masses as unconscionably (excessively) as their former capitalist masters.'

But it does not desire to do away completely with the State. Here it does not agree with Syndicalism. It wants the State to continue in order to look after certain non-economic matters such as international relations, defence, etc. It agrees with Syndicalism that the control of the State over industry should be eliminated and handed over to those persons who run it. It wants the industries to be controlled and managed by workers (both manual and intellectual) themselves. The workers, both manual and intellectual (all workers including managers and clerks who are now largely excluded from trade union membership), will be organised into autonomous guilds such as flourished in the Middle Ages. In other words, the Guild Socialists aim at the establishment of self-government in industry through a system of guilds. The above analysis of the stand of the Guild Socialists clearly shows that they occupy a middle position between the Syndicalists and the State Socialists.

Secondly, Guild Socialism does not ignore the interests of the consumers. It says that to fix prices and decide other matters which affect the consumers, there will be joint councils of workers and consumers. Here again we find that Guild Socialism represents a compromise between Collectivism and Syndicalism. Collectivism vests the control of industry in the State representing the consumers and Syndicalism places the control of industry in the hands of the workers, ignoring the consumers altogether. But Guild Socialism tries to reconcile the interests of the workers with those of the consumers.

STRUCTURE OF GUILD SOCIALIST SOCIETY

Roughly, the structure of the Guild Socialist society will be like this :

(*i*) There will be a national guild or a self-government association of workers for each industry which will be controlled and managed by the guild.

(*ii*) Consumers' councils will collaborate with the guilds to decide prices and other matters which affect them.

(*iii*) A common or political parliament will look after common affairs like defence and foreign relations. Economic and industrial matters of national importance will be looked after by the national guild congress, representing the national guilds of each of the various industries and occupations.

(*iv*) A joint committee equally representing workers and consumers will harmonize the positions of guild congress and political parliament.

METHODS

In its methods also Guild Socialism occupies a middle position between Collectivism and Syndicalism. It does not agree with Syndicalism that violent methods should be used to bring about the necessary social change. Nor does it agree with Collectivism that only political methods should be adopted. Political methods will be retained to educate the labouring classes and to hamper the operations of capitalism. The Guild Socialists will also use economic methods which are mainly of two forms—the policy or method of encroaching control and collective bargaining.

The guilds or trade unions would claim from employers the right to elect foremen, overseers and other officials. This is called the policy of encroaching control Collective bargaining means that the workers will determine not only the character and extent of output but also specify terms of service and amount of wages payable in a lump sum. The money then will be distributed among the workers by trade unions. Ultimately, when the industry comes under the control of the workers, this experience will prove useful. Some Guild Socialists recognise the possibility of violent action also to break the obstinate resistance of the capitalists, but on the whole they admit that an organised revolt against capitalism is not feasible.

COMMENTS

Guild Socialism is now extinct as a movement. After the First Great War many building guilds had come into existence in Britain. They had formed their National Building League also. But it soon became a bankrupt body because of its mismanagement and lack of funds. With the disappearance of the League, Guild Socialism came to an end as a movement.

This theory and movement suffers from many defects. *First*, the Guild Socialists forget that the supreme position of the State is necessary to settle the disputes among different guilds.

Secondly, the Guild Socialists want to separate economic matters from political matters. But they are blind to the fact that in the modern society a complete divorce between the two is not possible.

Thirdly, the Guild Socialists have proposed a very complicated economic and political structure. It requires for its efficient working a very high standard of intelligence on the part of an ordinary citizen. The whole scheme seems to be unworkable in practice. "The Constitution of the State contemplated by the Guild Socialists is a complicated nightmare of committees and joint-committees which reminds one of the machinery made by boys out of 'Meccano,'" (*Prof. Hearnshaw*).

Though Guild Socialism has disappeared as a movement, it has served to emphasize the value of workers' unions and of workers' participation in management. The idea of workers' representation on management bodies of industries is gaining ground everywhere.

POINTS AT A GLANCE

1. Guild Socialism is a half-way house between Collectivism and Syndicalism. Cole and Hobson are its chief advocates.

2. It does not desire to abolish the State, but wants to deprive it of economic and industrial functions. It wants that industries should be controlled and managed by guilds of of workers.

3. It tries to reconcile the interests of the consumers with those of the workers.

4. In its methods also it occupies a middle position. Encroaching control and collective contract are its two important methods.

*5. **Its defects are :***

(a) It does not recognise the supremacy of the State.

(b) It is impossible to separate political matters from economic matters.

(c) The organisation proposed by it is very complicated.

SUGGESTIVE QUESTIONS

1. **Write a short essay on Syndicalism.**

2. Discuss the attitude of the Guild Socialists and the Syndicalists towards the State.

3. "The Constitution of the State contemplated by the Guild socialists is a complicated nightmare of committees and joint-committees which reminds one of the machinery made by boys out of "Meccano." (*Prof. Hearnshaw*). Discuss this statement.

CHAPTER XXIV
CONTEMPORARY POLITICAL THEORIES
(COMMUNISM)
Outline

Main Principles of Communism
Criticism
Communism and other Schools of Socialist Thought

93. What is Communism ? Discuss its aims and methods.

Or

Discuss critically the theory associated with the name of Karl Marx.

The basic principles of Communism were developed by Karl Marxs and his friend Frederick Engels. Karl Marx was born of Jewish parents in Germany on May 5, 1818. He was a brilliant scholar and took interest in history, jurisprudence and philosophy. Because of his revoluntionary ideas, he was banished from his native country. He went to England in 1849 and remained there for the rest of is life, studying and writing. He died in 1883. His chief works are the 'Cmunist Manifesto' and 'Capital'. The Communist Manifesto' was jointly written by Marx and Engles.

Marx is generally known as the father of Socialism. Before Marx there had been many thinkers who had exposed the defects of the social and economic order, but they never tried to change it and bring about a new order. Socialism before Marx was mainly a protest and an aspiration : it was utopian. Marx was the first thinker who put the socialist thought on scientific basis. It has been said that he succeeded only to the extent of making it pseudo-scientific, but there is no denying that he made it a tremendous force. He was not an original writer, but he had great synthetic power. 'He made use of philosophic materials which had been lying about loose and largely unused for many years and fused them into a systematic whole that supplied the socialist movement with a dynamic theory and a tremendous impulse to action.'

The important economic and political principles of the Marxian or Communist doctrine are :

1. **Materialistic interpretation of History.** Marx says that society is undergoing a constant change, and the development of human society through all ages has been determined by economic forces. The system of production prevailing in society determines the whole character and structure of society. Political or State power is exercised by that class which is economically stronger. The State reflects the will of the dominant economic group. Laws are made to safeguard existing property relationships. Even religion and morality are the subtle expressions of materialistic factors.

Again, it is the economic factors which lie at the root of all revolutions. Progress of mankind is determined not by human ideas but by economic forces.

2. **The Class Struggle.** Marx says that every system of production that has been evolved so far has given birth to two opposite classes which can be broadly divided into two classes—the dominant or the privileged class, and the exploited class. The interests of these two classes are antagonistic to each other. They can never co-exist. The clash between the two always results in the victory of the exploited over the exploiters. It is this clash which has enabled our society to move from the age of slavery to the age of serfdom and from that age to the age of capitalism. At present the two main classes are the capitalists and the workers or the proletariat. Their interests clash with each other. A day will come when the capitalist class will be overthrown and the capitalist system will be replaced by the socialist system of production.

3. **The Theory of Surplus Value.** The essence of the theory of surplus value is that the true worth of every commodity is determined by the amount of socially useful labour put into it. In other words, labour creates all value. The capitalist, the owner of the means of production, returns to the workers only so much of the value created by the worker as is necessary for his bare existence. The surplus value (the difference between the sale price of a commodity and its cost of production) is appropriated by the capitalist, and this constitutes his profit—a toll wrung from the grinding toil of the workers.

4. **Inevitability of Revolution.** Capitalism, according to Marx, has certain inherent weaknesses or contradictions which would inevitably bring about its extinction. It contains the seeds of its own destruction. The capitalists are motivated only by a desire for profits. Thus they would pay the workers the lowest wages possible. The purchasing power of the workers would become too low to buy the products pouring out of the factories. Supply would exceed demands and a crisis must arise. Through cut-throat competition small capitalists would be devoured up by the bigger ones and they would join the ranks of the workers. The number of workers would increase whereas the number of capitalists would decrease.

Moreover, in their mad race for new markets, the various capitalist powers would come into conflict with one another thus leading to wars. This, in turn, would deepen the misery of the working classes. The workers would organise themselves deliberately and, when the time is ripe, would rise in revolt, seize political power and instruments of production. According to Marx, the State is merely the instrument of class oppression. Even the democratic State is an instrument of capitalist oppression. It must be overthrown by the workers.

5. **Proletarian Dictatorship.** Marx declares that the victorious workers must establish a dictatorship during the transitional period to put their programme into practice and to stamp on

(destroy completely) the counter-revolutionaries and the capitalists who would try to capture political power again. During this period the whole economic system will be transformed into a socialist system.

6. *Stateless and Classless Society.* Dictatorship of the proletariat or workers represents the transitional and revolutionary stage in the whole struggle. The final or post-revolutionary stage is the 'withering' away of the State. Once capitalism is completely destroyed, the State, which is now performing the function of protecting the interests of the propertied class, will not be needed. A stateless and classless society will come into being. In the new society, free and voluntary associations will perform all the functions which are necessary for the satisfaction of the needs and aspirations of a civilised being. Men will live and work in an atmosphere of harmony and co-operation. Everyone will work for society and society in its turn will look after him. This will be the Communist society based on the principle 'from each according to his capacity, to each according to his need.'

This is the thesis of Karl Marx. This theory or philosophy has been interpreted differently by his disciples. Consequently, we have so many kinds of Socialism. Communism is also a Socialist theory which is an orthodox interpretation of Marxian philosophy. The Communists claim to be the true inheritors of the teachings of Marx. In the technical sense, however, the term Communism is used as a theory of method. It indicates the principles on which the capitalist system is to be overthrown. It lays emphasis on the revolutionary aspect of Marxian philosophy. The Communists preach violence, class struggle and revolution. They have no faith in democracy and and all that it means. Their aim is to keep up disturbed conditions, and to prevent any stabilisation that might make the worker contended with his lot. The revolution will arise not in a clear sunny sky, but in a stormy weather and therefore all that encourages this must be encouraged—strikes, and wars in particular. The Communists do not believe in morality. They are prepared to adopt all means, fair or foul, to achieve their end.

Lenin, the founder of the Soviet regime in Russia, added, the idea of a highly centralised party to the Communist theory. He said that such a party must act as the spear-head of the proletarian revolution and after victory must establish a one-party State. This is what he did after the Russian revolution. He made Russia a one-party State in which the Communist Party (Bolsheviks) became all powerful. All other parties were ruthlessly suppressed by the Communist Party. Since then his party has been in power there. The idea of one-party State has now become an essential part of the theory and practice of Communism.

SOCIALISM AND COMMUNISM

1. Both Communism and Socialism (State Socialism or Democratic Socialism or Collectivism) agree with each other that the means of production should be communally owned. They should

not be owned as at present by a small fraction of the populace. But the Communists believe that political power necessary to bring about this change must be literally fought for by the working class who would then have to establish a dictatorship expressed through the Communist Party. The Socialists, on the other hand, believe that the change can be brought about through a parliamentary victory which yet preserves social democratic liberties for all. 'Socialism is evolutionary and constitutional. Communism is violent and sanguinary.'

2. Under Socialism, the State is a permanent institution. Communism, on the other hand, regards the State as a temporary institution required only during the transitional period. Ultimately it will 'wither' away.

COMMENTS

Communism, has been criticised by many thinkers.

1. The Marxian theory of value has been shown to be true in part only. Labour of the worker is not the sole creature of wealth. The labour and the capital of the capitalist both play an important part in the creation of value

2. Marxian dogma of economic determinism or materialistic interpretation of history, is inadequate. Marx ignores the part played by non-economic factors in shaping history. Human passions, sentiments, emotions, religion, etc. also influence human activities. "Larger events in our political life are determined by the interaction of material conditions and human passions," (*Russell*).

3. The prophecy of Marx that wealth would concentrate in fewer and fewer hands and that the economic condition of workers would worsen has proved incorrect. Had Marx been alive today, he would have admitted that he had made a hash of a prophecy. With the development of capitalism and industry, the lot of the workers is improving in many countries. Organised labour has, without revolution, secured steadily a rising standard of living. Prosperity is more widely shared and class distinctions are outwardly much less noticeable and inwardly less rigidly observed than when Marx wrote 'Capital.' He underestimated the extent to which improved methods of production in the most advanced nations would raise the standard of living of the common people, eliminating the need and the desire for revolution. Marx had supposed that organised labour would promote revolutions but history has shown that revolutions can take place in countries which are mainly agricultural and which have little or no organised industrial abour. It is safe to say that Karl Marx never imagined that his revolution would come neither in Germany, nor France, nor Britain, but in Russia which was an agricultural country at the time of revolution.

4. It is wrong to assume that State is simply a class institution based on violence. The State is based on will and not on force. 'Will not force, is the basis of the State.' It is a moral institution the aim of which is to develop human personality. Marx did not have a realistic understanding of how democratic

States controlled by the people as a whole, may be made to serve the interests of all classess and eliminate some of the most glaring social injustices.

5. It is difficult to believe that the State will one day disappear. It is not possible that the Communists will give up political power voluntarily. Dictatorship would love to stay if it could. Moreover, it is not possible that a society created by violence and suppression of individual freedom can be ultimately organised on the basis of complete absence of force.

6. *Finally*, the methods advocated and preached by the Communists must be condemned. Their methods—violence and revolution—are savage. Peace-loving civilised people cannot approve of them. Good ends can be achieved only by good means.

Despite all refutation, however, the Communist doctrines are a powerful factor in the world situation today. The teachings of Marx, whose thought has divided the world into two hostile camps, cannot be ignored.

POINTS AT A GLANCE

1. Marx was the first thinker who put Socialism on a scientific basis. His important works are 'Communist Manifesto' and 'Capital.'

2. The important principles of his doctrine are materialistic interpretation of history, the class struggle, theory of surplus value, social revolution, proletarian dictatorship, and Stateless and classless society.

3. Communism proclaims itself the true successor to pure and unadulterated Marxism. In the technical sense, however, the term Communism is more of a movement than a theory. The Communism is more of a movement than a theory. The Communists lay emphasis on the revolutionary aspect of Marx's doctrine. They indicate the way in which the capitalist system is to be overthrown. They preach class-war, violence and revolution.

4. The critics of Communism point out :

(a) The materialistic interpretation of history is grossly exaggerated.

(b) The history of surplus value is partly true.

(c) Marx's prophecy regarding the development of capitalism detrioration of workers' lot has historically been proved incorrect.

(d) It is wrong to assume that the State is a class-institution based on violence.

(e) It is difficult to believe that State will ultimately disappear.

(f) The methods advocated by the Communists must be condemned.

5. In spite of its defects, Communism is a big force in the world today.

94. Compare and contrast the various forms of Socialism as to their aims, methods and programmes of action.

Or

"Socialists are divided into a number of opposing schools which are separated by acute differences both as regards their aims and their methods." (*Joad*) Discuss with reference to the more important schools of Socialism in recent times.

It is not easy to give a clear-cut definition of socialism. Its advocates are so numerous that it "is like a hat that has lost its shape, because everybody wears it." The Socialists themselves do not agree with one another with regard to their exact aims and methods. All of them, however, agree that private property must be abolished. They say that the present society in which we live consists of two classes—the working class and the capitalist class. The capitalist class is the owner of the means of production, natural and man made, such as machines, lands, mines, etc., and employs others to work on them, and makes profit without producing anything itself. This class lives in luxury and idleness. On the other hand, the workers who produce wealth lead a miserable, hopeless and helpless life. All Socialists believe that private property is the root-cause of all the evils that we witness in society today. Capitalism, they say, gives rise to serious inequalities of wealth among the citizens; it is inefficient in its working; it creates insecurity for the workers and it is unjust as the worker gets much less than what he deserves.

Modern socialistic thought is usually divided into four groups—Collectivism or State Socialism, Syndicalism, Guild socialism and Communism.

Collectivism wants the ownership of the means of production to be vested in the State. It is pro-State. It believes in constitutional and evolutionary methods to bring about the new social order.

Syndicalism is anti-State. It wants the means of production to be placed in the hands of the industrial workers. It is anti-State. It believes in direct action or violent methods to bring the Syndicalist society into existence. General strike is its favourite weapon. Boycott and sabotage are its other methods.

Guild Socialism stands mid-way between Collectivism and syndicalism regarding its aims and methods. It does not want to abolish the State. It wants the State to perform purely political functions. Industries should be controlled and managed by autonomous guilds of workers. It does not favour violent methods. The methods recommended by it are a mixture of political and economic methods. The two forms of its economic methods are 'encroaching control' and 'collective contract.'

Communism is an extreme form of Socialism. It is an orthodox interpretation of Marxian philosophy. It is anti-State, as Syndicalism is, but wants to utilise the State to crush all opposition through the dictatorship of the proletariat. The dictatorship of the proletariat is necessary only during the transitional period. The

ultimate aim of Communism is to establish a classless and Stateless society. The Communists advocate violent methods to achieve their aims.

POINTS AT A GLANCE

1. The modern socialistic thought is divided into a number of schools which differ with regard to their exact aims and methods. But all of them agree on the fundamental point: abolition of private ownership of the means of production.

2. Collectivism, Syndicalism, Guild Socialism and Communism are the important forms of Socialism.

4. Syndicalism is anti-State. It wants to establish workers' control over industries. It believes in violent methods.

5. Guild Socialism represents a half-way house between Syndicalism and Collectivism. It believes that the State should perform only political functions. The industrial system should be controlled by autonomous guilds of workers. The Guild Socialists want to supplement political methods with direct action of economic nature.

6. Communism is an extreme form of Socialism. It is anti-State, but during the transitional period it wants to utilise the State. Its ultimate aim is to establish a classless and Stateless society. The Communists advocate violent methods to achieve their aims.

SUGGESTIVE QUESTIONS

1. "Marx is the first Socialist whose work can be termed scientific. He not only sketched the kind of society he desired but he spoke in detail of the stages through which it must evolve." (*Joad*) Discuss.

2. How will you distinguish Communism from Socialism?

3. Discuss the attitude of the Guild Socialists, the Syndicalists and the Communists towards the State.

CHAPTER XXV

CONTEMPORARY POLITICAL THEORIES
(ANARCHISM AND FASCISM)

Outline

Meaning of Anarchism
Criticism
Anarchism and other 'Isms.
Meaning of Fascism
Criticism
Difference between Fascism and Communism

95. Write a short essay on Anarchism. (*V. Important*)

Anarchism has a refreshing quality of simplicity, particularly when contrasted with the intricacies of Marxism. The word 'Anarchism' is derived from the Greek word 'anarchia' meaning absence of rule. It is a doctrine standing for the abolition of the State, of private property and of religion. Its aim is to create a Stateless, classless and irreligious society. The Russian writers Bakunin (1814-1876), Tolstoy (1828-1910) and Kropotkin (1842-1921) are among its chief exponents.

OPPOSITION TO THE STATE

The Anarchists are anti-State. Why? (a) The State is based on force. Force corrupts those who exercise it and dehumanises those against whom it is used. Kropotkin says: "Under that despicable master might have been an excellent man, if power had not been given to him." The State can, therefore, have no moral claim to our obedience. The dictates of the State are an invasion on the dignity of rational and moral man. True liberty of the individual and the existence of the State cannot go together. Human beings will be more happy and will be able to develop themselves better if the State is done away with.

(*b*) The State is an evil because it is contaminated with the vices of the private property system. It protects private property. The evils of capitalism can be removed only when the State is abolished. "Private property could not exist without the State and the State could not exist without private property. Each sustained the other, and each magnified the evils of the other. So long as either existed the working class would be ground down and dispossessed. Even with the right to elect their own officials or representatives the mass of people could not control the State, because the wealth of the propertied classes would be used to fool the voters into delivering the political mechanism into their hand." (*Bakunin*). This is an economic argument of the Anarchists for the destruction of the State.

(*c*) The State is superfluous. According to the Anarchists, there is nothing that cannot be done in the absence of the State. Take, for instance, defence against foreign aggression. Kropotkin says: "Standing armies are always beaten by invaders who have

historically been repulsed only by spontaneous uprisings." The people, by spontaneous and co-operative effort, can organise defence better than it can be done by professional or mercenary soldiers employed by the State. The State is not needed even to maintain law and order in society. The State organises police force, courts, etc., to maintain law and order and to punish criminals. The Anarchists believe that the Anarchist society will be based on justice and freedom. Such a society will be free from crimes. Man is not bad by nature. He commits crimes because of his environments. The State itself creates criminals by maintaining a bad economic system. The State is an unnecessary evil. The citizens will form voluntary associations for various purposes and the functions which are performed by the State today will be performed by such associations. The State can perform only one function. It should sign its death warrants and then disappear.

It should be remembered that Anarchism does not imply absence of order. It implies absence of force and compulsion. The Anarchists believe that disorder and disharmony arrive when there exist competition and compulsion in society. When these are absent, order and harmony will naturally prevail. "Take pebbles and put them into a box and shake them, and they will arrange themselves into a mosaic that you could never get by entrusting to anyone the work of arranging them harmoniously.

OPPOSITION TO PRIVATE PROPERTY

The Anarchists are opposed to the system of private property. Why ? Because the system of private property or capitalism leads to exploitation of man by man. It makes the rich richer and the poor poorer. Under this system, the majority of people are miserably poor, while a few rich persons lead a life of idleness and wastefulness. Private property is also responsible for all kinds of moral and social evils. It results in injustice and immorality in society. It enables a few persons to enjoy the fruits of the hard labour of many.

OPPOSITION TO RELIGION

The Anarchists condemn religion because it sanctifies (makes holy) many evil institutions that exist today. It makes the poor people believe that it is the will of God that they should lead a wretched life. It has always been an ally of the rich. It has preached to the poor the philosophy of contentment and submission to the injustice existing in the present social system. It is the opium of the people.

In short, the aim of Anarchism is to free an individual from the yoke of the State or government, from the evils of private property and from the grip of religion.

METHODS

Regarding their methods for achieving their aims, the Anarchists are divided into two groups. They are philosophical Anarchists and revolutionary Anarchists. The revolutionary Anarchists like Kropotkin want to change the present order and bring about the new one by violent means and revolution. The philosophical Anar-

chists like Tolstoy, confine themselves to peaceful methods like education, persuasion and example.

COMMENTS

Anarchism has been criticised on the following grounds :

First, the Anarchists ignore human nature. Man is not an angel. His nature has two sides—good and bad. Some authority will always be necessary to keep in check human beings who are not free from shortcomings. There can be no liberty without restraints. Unrestrained liberty is unimaginable. If the State is abolished, liberty will be the monopoly of those who are strong and cunning. The law of the jungle will prevail. An Anarchist society is a utopia which cannot be realised. Bertrand Russell says, "The Anarchists ideal of a community in which no acts are forbidden by law is not, at any rate for the present, compatible with the stability of such a world as the Anarchists desire. The State in some form, whatever may be said in criticism of its mistakes, its inefficiency, its abuse of power, is and always be an absolute necessity among civilised men."

Secondly, the Anarchists are wrong when they say that the State is an evil, that every State action involves coercion. History shows that the State has done a lot for the progress of the mankind. The State at present in doing many things which do not involve any force and coercion. The modern State builds schools, colleges and houses. It organises health services. It promotes agriculture, industry, etc. All these activities have no element of force in them. Whatever in human history is great or admirable has been found in **the governed communities.**

It may, however, be conceded that the State power is often wrongly used. Unscrupulous leaders and more powerful economic class often use the power of the State to exploit the masses and to grind their own axe. The Anarchists rightly point out to the existing shortcomings of the State, of capitalism and of religion.

POINTS AT A GLANCE

1. Anarchism is a doctrine which aims at the establishment of a classless and Stateless society. Today, Bakunin and Kropotkin are its chief advocates.

2. The Anarchists are anti State. They dislike the State because (a) it is based upon force ; (b) it protects private property ; (c) it is superfluous. There is nothing that cannot be done without the help of the State, The Anarchist society will consist of voluntary associations in which individuals will work according to their sweet will and without any compulsion.

3. The Anarchists are against the system of private property which leads to exploitation of man by man.

4. They are against religion which always sides with the capitalist and political authority.

5. Some Anarchists believe in violent methods while others believe in education, persuasion, and example.

6. Anarchism is criticised on these grounds : (a) It ignores

man's nature. Men are not angels and liberty does not apply absence of all restrictions. (b) All State activities do not involve coercion.

96. **Explain the difference between : (a) Communism and Anarchism ; (b) Anarchism and Syndicalism ; State Socialism and Anarchism.**

Communism vs. Anarchism. Communism and Anarchism are intimately related to each other. Most of the Anarchists accept the methods (violence and revolution) advocated by the Communists and the Communists accept the Anarchists' ideal—Stateless and classless society. Communism is, however, regarded as a theory of method because it lays emphasis on the methods through which a classless and Stateless society can be established. But it does not try to fill in the details of the ultimate goal. Anarchism, on the other hand, gives prominence to the goal it wants to reach.

There is one more difference between the two. The Anarchists regard the State as an unnecessary evil. They would like to abolish it immediately. The State is not to be retained during the transitional period. The Communists are, however, in favour of retaining the State during the transitional period. They say that after capturing the machinery of the State, they would establish the dictatorship of the workers. This, they say, is necessary to fight counter-revolutionaries. But ultimately, the State power will wither away.

Anarchism vs. Syndicalism. There is a close relationship between Anarchism and Syndicalism. Both are anti-State. Anarchism regards the State as an unnecessary evil and aims at its total abolition. Syndicalism also wants to destroy the State forthwith. The Syndicalist society will be a loose federation of associations of workers and peasants who would have control over the means of production. The aim of Anarchism is also the same. Besides, both these doctrines condemn political and parliamentary methods to achieve their purpose. All this shows that there is not much difference between the two. Syndicalism has more or less the same aims but it concentrates more on the methods to achieve its aims than it is done by Anarchism. That is why it has been regarded by some writers as 'organised anarchy.'

But it does not mean that there is no difference between these doctrines. Syndicalism is a working class movement whereas Anarchism has never been a labour movement. The leaders of Anarchism belonged to aristocratic families. Again, Syndicalism neglects the interests of consumers. It wants to establish the supremacy of workers in every sphere of life. On the other hand, Anarchism wants to establish a society in which all interests are safeguarded and harmonised.

State Socialism and Anarchism. Both these doctrines are diametrically opposed to each other. State Socialism regards the State as a positive good whereas the Anarchists are anti-State. In fact, Anarchism is 'Individualism run mad.' Moreover, Socialism believes in peaceful and parliamentary methods of changing the present social order. But most of the Anarchists believe in violence and armed revolution to achieve their aims.

POINTS AT A GLANCE

1. Anarchism and Communism are closely related to each other. The ideal of both is the establishment of a classless and Stateless society. But Communism lays more emphasis on the methods to reach its goal; it does not fill in the details of the ultimate goal. Further, Anarchism wants to abolish the State forthwith. The Communists would retain the State during the transitional period.

2. Syndicalism and Communism are both anti-State. Both reject political methods. The difference between the two is that while Syndicalism ignores the interests of the consumers, Anarchism wishes to harmonise all interests. Moreover, Syndicalism is a labour movement, while the brains of Anarchism belonged to aristocratic families.

3. Anarchism and Socialism are diametrically opposed to each other. Anarchism is anti-State; Socialism is pro-State.

97. What do you understand by Fascism? State and criticise its main tenets.

Or

"Fascism is the anti-thesis of all that is democratic, liberal and socialistic." Discuss. ***(V. Important)***

Fascism is the creed of the Italian Fascist State which was established by Mussolini. It has been defined as "a governmental system with strong centralised power, permitting no opposition or criticism, controlling all affairs of the nation (industrial, commercial, etc.), emphasizing an aggressive nationalism and (often) anti-communist." The name 'Fascism' was invented by Mussolini.

ORIGIN OF FASCISM

At the close of World War I, the word 'Facism' was unknown. The democratic government of Italy was not able to solve the post-war problems of the country. Poverty and unemployment became widespread. The discontent of the people led to strikes and to the growth of radical movements. At this critical juncture (in October 1922), Mussolini and other Fascists (the word 'Fascism' or 'Fascist' is derived from the Latin word 'Fasces' which means a bundle of rods and axe—symbols of authority and discipline in ancient Rome) marched on Rome and captured power. They were supported by the capitalist classes and other vested interests who were afraid of left-wing radicalism which was rife in Italy at that time. They did not want Communism, which had captured power in the Soviet Union, to seize power in Italy also.

Another reason for the rise of Fascism in Italy was that there was a lot of nationalist resentment at the small gains Italy had obtained for its participation in the war on behalf of the allies. The Italians had hoped that they would secure a big share of the spoils of victory but their hopes were never realised. So they were easily influenced by nationalistic propaganda of Mussolini and of his followers.

Thirdly, the Italian radicals (Socialists and Communists) had no doubt a large following in the country, but they were weakened

by internal dissensions. Their weakness gave an opportunity to Mussolini and his followers to capture power.

Fourthly, Itlay, with her widespread illiteracy, did not possess any well-established traditions of democracy. The Italians had no experience of self-government. To the Italians, Fascism came not as the overthrow of a democracy long possessed and cherished, but rather as the resumption of autocratic traditions.

Finally, Mussolini's leadership must be regarded as one of the most important factors responsible for the rise of Fascism in Italy. His personality and leadership brought together people of diverse character.

MAIN TENETS OF FASCISM

In the beginning, Fascism did not have any well-defined ideology. Mussolini was not in favour of abstract thinking. He said : "Fascism is based on reality, Bolshevism or Communism is based on theory ....we want to be definite and real ....my programme is action, not talk." To quote him again : "We Fascists have always expressed our complete indifference towards all theories ; we have had the courage to discard all traditional political theories. It is sufficient to have a single viewpoint, the nation." In short, Fascism was a product of opportunism and not of conviction.

When the Fascist regime was securely entrenched, it became advisable to formulate a Fascist ideology as a window-dressing to show to the world. The main elements in the Fascist philosophy are as follows :

1. Fascism rejects democracy. Democracy means rule by the majority of the people. But the majority, according to it, is often foolish and unable to govern. It, is quality and not quantity which matters. Only a few selected people can perform the difficult task of government and realise all those purposes for which the State exists. Only such people have a right to govern ; not only the right, but the solemn duty, to govern. Parliaments are nothing but talking shops. Mussolini said : "Fascism denies that the majority, by the simple fact that it is a majority, can direct human society ; it denies that numbers alone can govern by means of a periodical consultation and it affirms the immutable, beneficial, and fruitful inequality of mankind, which can never be permanently levelled through the mere operation of a mechanical process such as universal suffrage." So Fascism believes in the rule of the elite. It ridicules democracy and liberalism (a political doctrine standing for the freedom of the individual and democratic institutions). A minority clique, organised as a party, wields absolute power over a large majority whom it considers and treats as inferior.

To preserve its supremacy, the minority indulges in ruthlessness and fastens on its subjects the coercive fetters of the police State. The people must obey an ironclad autocracy blindly. "Believe, obey, fight" was the motto prescribed by Mussolini for his countrymen. ' In the name of God and of Italy I swear I will obey the orders of the Leader without questioning"—this was the oath taken by members of the Fascist Party of Italy.

2. Fascism glorifies the State. It believes that the State is an end in itself. Individuals must subordinate their interests to those of the State and must be prepared to make every sacrifice when called upon to do so by the State. The Italian Fascists put it bluntly: "The State or society is the end, individuals the means, and its whole life consists in using individuals as instruments for its social ends". Individuals have no rights against the State, and must look upon it as the embodiment of justice and virtue. The Fascist slogan is, "All within the State, none outside the State, none against the State." The authority of the State is totalitarian in character extending its control over all the spheres of life, economic, social, political, moral and religious.

3. It rejects pacifism and internationalism. It believes in war, and is imperialistic. The State must expand and become an empire. According to it, peace is a dream and an act of cowardice. War is to a man what maternity is to a woman.

4. Fascism is known for its irrationalism or anti-intellectualism. The Fascists do not believe in the methods of discussion and persuasion. They try to make use of the emotional and non-rational side of man's nature. They completely deny the rationality of man. Mussolini regarded the people as 'mud'.

By the methods of propaganda the minds of the people are indoctrinated. Education, newspapers and radio are all used to impress upon the citizens the ideas for which the ruling party stands; for those who will not conform there is exile or the concentration camp.

5. Fascism is in favour of capitalism and believes that private property is essential for the economic advancement of the nation. It is, therefore, anti-socialist. Socialism stands for the abolition of private ownership of the means of production and aims at an equitable distribution of wealth. Fascism has no such aims. The Fascists, however, admit that private economic interest must be subordinated to that of the nation. The State has the right to interfere in economic matters whenever it likes. In Italy, Fascism controlled capitalism in practice, and did not allow it to operate freely.

Fascism does not allow class-war. It permits no strikes on the part of the workers. Nor does it permit lock-outs on the part of the capitalists. Both the classes—the workers and the capitalists—must work in cooperation for the maximum national production.

6. Fascism has put forward the idea of corporate State. It believes that the State does not consist of individuals. It consists of groups. Employers, workers and other occupations should be organised into corporations. These corporations should elect members of the legislature of the Fascist State. Thus the Fascists reject the principle of territorial representation. They support the principle of functional representation.

To sum up, Fascism rejects democracy and is the enemy of individual liberty. It glorifies the State, and is imperialistic in outlook. It is a mortal enemy of peace and internationalism.

COMMENTS

It must be admitted that Fascism did a lot for the Italians. Mussolini made Italy a very powerful country and restored her old prestige. He united the Italian nation.

However, Fascism suffers from many inherent defects. *First*, the Fascist political system is nothing but naked dictatorship. It is based upon force and cannot last long. Fear and force cannot be the basis of the State.

Secondly, it is opposed to all progressive ideas. It destroys all individual freedom and kills human personality. It is a reactionary doctrine.

Thirdly, it is too nationalistic and aggressive in outlook, and is thus inimical to world peace.

To sum up, Fascism may be used as a temporary remedy, but it cannot be a permanent thing. It is a regime of force and can survive only among the decadent peoples. It cannot suit growing nations.

POINTS AT A GLANCE

1. Fascism is the creed of the Fascist State which was established after the First Great War under the leadership of Mussolini. The esential features of this creed are :

(*a*) *It rejects democracy.*

(*b*) *It glorifies the State.*

(*c*) *It rejects pacifism and internationalism, It believes in war, and is imperialistic.*

(*d*) *It is known for its irrationalism.*

(*e*) *It is against Socialism.*

(*f*) *It supports the idea of corporate State.*

2. It is a reactionary doctrine. It is opposed to all progressive ideas (individual liberty, democracy, internationalism), etc.

93. **Compare and contrast the methods and objectives of Fascism and Communism.** (*Important*)

It is generally believed that Fascism and Communism are entirely opposed to each other. But that is not true. As a matter of fact, there exists a striking similarity between the two :

1. Both Communism and Fascism despise those principles on which democracy rests. Both advocate one-party rule. The Communist party and the Fascist party both enjoy the monopoly of political power. All other political parties are banned. Any right of opposition or criticism is denied. Opposition is regarded as treason. There is no freedom of the press, of meeting or of association. The judiciary is not independent. The legislature is just a rubber-stamp. All powers are exercised by the executive, or party bosses.

2. Both are totalitarian. The State under Fascism or Communism controls the totality of what goes on within its borders.

Every aspect of collective or individual life—political, economic, religious, cultural, etc.,—is controlled by the State 'whatever is not forbidden is compulsory, whatever is not compulsory is forbidden'

3. Both adopt the same methods—terrorist and violent methods—to capture political power and to retain it.

There are, however, some fundamental differences between Fascism and Communism. They are :

1. The ultimate aim of Communism is to abolish the State. It wants to retain the State only during the transitional period in order to exterminate capitalists and counter-revolutionaries through the proletarian dictatorship. Ultimately, the State will wither away. On the other hand, Fascism regards the State as an end in itself. It will continue to play an important role in the lives of the people.

2. Communism seeks to bring into existence a classless society. Its aim is to do away with all economic inequalities. On the other hand, Fascism claims to represent the whole nation. It believes that the existence of different classes is necessary for the progress of the nation.

3. Fascism is fiercely nationalist. Communism in principle is international. Its slogan is : "Workers of the world unite." But, as Tito's Yugoslavia has shown, Communism too can be as nationalistic as any other political system.

4. Communism is materialistic. The Communists are atheists. The Constitution of the Soviet Union, for example, recognises the freedom of anti-religious propaganda, but it does not give the Soviet citizens the freedom to propagate a religion. Marx regarded religion as the opium of the people. Fascism does not bother about the religious views of party members. In Italy, the Fascists had made peace with the church and tried to use it for their ends.

5. Fascism believes in the purity and superiority of race. Moreover it subordinates woman to man. Communism believes in the equality of races and of sexes.

POINTS AT A GLANCE

1. The following are the points of similarity between Communism and Fascism:

(a) Both reject democratic principles.

(b) Both are totalitarian in character.

(c) Both believes in violent methods.

2. The differences between the two are :

(a) The ultimate aim of Communism is to abolish the State and Fascism wants to retain it:

(b) Communism believes in a classless society ; Fascism regards the existence of all classes essential for the progress of the nation.

(c) Communism is international ; Fascism is nationalistic.

(d) *Communism is materialistic. Fascism is not so materialistic.*

(e) *Communism welcomes racial diversities. Fascism believes in the purity and superiority of race.*

SUGGESTIVE QUESTIONS

1. Show how Anarchism and Socialism are entirely opposed to each other.

2. "Anarchy is not the absence of order, it is the absence of force." Discuss.

3. Compare and contrast the aims and methods of Fascism and Communism.

4. **Write a short note on Nazism.**

(Hints.: German Nazism was essentially the same thing as Italian Fascism. Like Fascism it was the arch-enemy of democracy. It believed in the rule by a "strong man" having a militant, well-organised party. No opposition party was tolerated. The rights of the individual simply did not exist. Like Fascism, Nazism was totalitarian in character. It believed that the State was an end in itself, and that the welfare of the individual must be subordinated to the good of the State which must control every sphere of individual's life.

There was one difference between Italian Fascism and German Nazism. The former was not so racial in outlook in the beginning as the latter. The German Nazis put forward the fantastic theory of racial superiority. They believed that the German race was the master-race and was, therefore, entitled to rule over the world. This theory of the German Nazis culminated in fanatical anti-semitism and in war.

In 1945, Mussolini was executed by Italian partisans. Hitler committed suicide in Berlin. In this way the reign of Fascism in Italy and Nazism in Germany ended.)

5. Explain the terms 'totalitarianism', 'police State' and 'authoritarianism.'

(Hints: Totalitarianism is merely another word for dictatorship. It is derived from the term 'total' and thus means that the entire life of the citizens, including their cultural and indeed private life, is controlled for the power and glorification of the dictator. The term 'total State' was coined by Mussolini. While the democratic conception of the State assigns only certain tasks to the State and leaves the shaping of life in all other spheres to the individual or to free associations, the total State seeks to extend its domination over all spheres of life. The individual counts nothing, while the State is everything. The totalitarian State watches every step of the citizen. By means of a secret police, literature, art, religion, etc. are all controlled.

The term 'police-State' also implies dictatorship. As we have said above, a dictator controls every phase of the individual's life. He uses the police (often a secret force) to end opposition and to compel everyone to conform completely to his ideology. The police is not just an ordinary agency to maintain internal peace and order and to arrest law-breakers. In a police-State, the police enjoys unusual and arbitrary powers to inflict punishment on people without trial or any other democratic safeguards. In Hitlerite Germany, there was Gestapo (name of the secret police). It was created by Goering after Hitler's advent to power in 1933 to suppress all opposition to the new government; later Himmler assumed control of it. Its methods were espionage upon the citizens, arbitrary arrest, torture and killing.

The term 'authoritarianism' is derived from the word 'authority', and it implies that power or authority is concentrated in the hands of one person or a few persons. There are no restrictions on their powers. So 'authoritarianism' is also another word for dictatorship. In a democratic State also the government wields authority but its powers are not unlimited. Its authority is limited by the laws of the State and ultimately by the will of the people.)

CHAPTER XXVII

NATIONAL AND INTERNATIONALISM

Outline

Elements of Nationality
Right of self determination
League of Nations.
U.N.O.

In this chapter we propose to discuss (1) the meaning of nationality and of nation, (2) the right of self-determination (3) the relationship between nationalism and internationalism, and (4) important international organisations such as the League of Nations and the United Nations Organisation.

105. What are according to your view the basic elements of nationality?

The term *nationality* refers to a group of people who are bound by a special sense of unity, or rather it signifies a sentiment which binds the people together. This sentiment of unity has two aspects: *(a)* the people feel that they have common interests in life and that only by living together they can lead a happy and prosperous life; *(b)* they feel that they are quite distinct from other populations. In the words of Laski, nationality 'implies the sense of special unity which marks off those who share in it from the rest of mankind'.

The basic elements of nationality, or the factors which create a feeling of unity in the minds of the people, are as follows:

1. **Common Residence** A number of people living within a well-defined area develop a sort of fellow-feeling. This ultimately grows into a sentiment of unity. Common residence contributes a good deal to the growth of the sentiment of nationality, but it is not indispensable for the continuance of this sentiment. The Jews, for example, had for long no home-land. They were scattered throughout the length and breadth of the world. Yet, they had a strong sentiment of unity. They were able to have residence or a common territory only in 1948 when the State of Israel came into existence.

2. **Common Race.** Some writers say that common race is one of the important factors that contribute to the creation of nationality. A number of people having a common racial origin naturally develop the sentiment of unity. But we should remember that common race is not an indispensable factor in the growth of nationality. Today no nationality can claim to be racially pure. Modern races are so mixed that none of them can claim to be pure. For the growth of nationality it is perhaps enough if the people think, rightly or wrongly, that they belong to racial stock. If they do not have such a belief, they should at least forget the differences in their origins. Race should not matter much. It has been rightly said that race is a physical phenomenon, whereas nationality

is a complex phenomenon into which spiritual elements enter. Racial differences do not and should not prevent the growth of a sense of unity. In the United States, nationhood has developed out of a blend of many races. So we do not regard sameness of race as an essential factor in the growth of nationality.

3. **Common Language.** People having the same language can understand one another in a better way than the people who have different languages. Common language enables them to exchange their ideas and feelings. Thus common language is an important factor in the growth of nationality. But we must not carry the impression that language is an indispensable element of nationality. The Swiss speak three languages, yet they constitute one nationality. Though the Americans speak the English language, they have a distinct nationality of their own.

4. **Common Religion.** Religion is a strong cementing force. Common religious practices and beliefs bring the people together and help them develop a sense of unity. The creation of Pakistan shows how religion unites people. Religious leaders are sometimes found to influence the national mind more effectively than it can be done by politicians. But it should be remembered that common religion is not an indispensable element of nationality. The Swiss people do not have a common religion. Still, they constitute one nationality. Pakistanis and Afghans have the same religion, but they do not feel that they are 'one'.

5 **Common History, Culture and Traditions.** Common history, traditions and culture play an important role in developing a sense of unity among a people. The memory of the American War of Independence fills the mind of every American with a sense of pride, and helps to create in his mind a feeling of unity with his countrymen. The memories of the Indian patriots who died in India's struggle for independence exert a powerful influence on the mind of every Indian.

6. **Common Interests.** Common economic and other interests help people to evolve a common nationality. These interests, for example, helped the American people strengthen their sense of unity.

It is clear from what we have said above that each of these factors facilitates the birth of nationality, but the presence of all the factors is not essential for the creation of nationality. Moreover, no factor is indispensable. Nationality is something subjective—it is a way of feeling and we cannot say definitely which factor or group of factors will be responsible for the creation of nationality in a particular case.

POINTS AT A GLANCE

Basic elements of nationality :

1. *Geographical unity or common residence.*
2. *Common race.*
3. *Common religion.*
4. *Common language.*

5. *Common history, culture and traditions.*

6. *Common interests.*

The presence of these factors is not essential for the creation of nationality. No single factor is indispensable. We cannot say which factor will be responsible for the creation of nationality in a particular case.

RIGHT OF SELF-DETERMINATION

104. Discuss the principle of "one nationality, one State" (*Important*)

There are some thinkers who believe that every group of people who constitute a nationality have the right to form a separate State of their own. This is known as the right of self-determination. Mill says: "Where the sentiment of nationality exists in any force, there is a *prima facie* case for uniting all the members of the nationality under the same government and a government to themselves apart." During the First Great War, Wilson, the American President, laid great emphasis on this principle. After the war many new States, such as Czechoslovakia, Poland, Finland, Yugoslavia etc., came into being in Europe on the basis of this principle. Mill and other advocates of this theory give the following reasons in support of their views:

1. The doctrine of self-determination is in accord with the democratic principle that the governed should themselves decide the question of government.

2. The working of democratic government is not practicable when the country is composed of many nationalities. If the people speak different languages and have different interests and opinions, they cannot form a united public opinion. In the absence of a strong public opinion, democracy will not be real.

3. In a poly-national State (a State of many nationalities) weaker nationalities are in danger of being absorbed by the stronger ones. Their language, literature, religion, culture, etc., will all become extinct.

On the other hand, there are many thinkers who criticise the principle of mono-national States (a State of one nationality) and support poly-national States. The principle of self-determination, they say, is a two-edged sword and it can be accepted only with reservations. It can unite as well as divide people. In the case of Italy, for example, it proved to be a great unifying force in the middle of the 19th century. But if it is applied to countries like India, the Soviet Union or Britain it would disrupt their unity and many small States would come into existence. If this principle is strictly followed, it would result in the disintegration of many well-governed countries.

Secondly, nationalities in the modern States are so much intermixed that it is impossible to separate them completely from one another. When this principle was applied to Europe after the First Great War, this practical difficulty was experienced. National minorities were left in almost every new State that came into exi-

lence after the war. For example, a large German population remained inside Czechoslovakia. Many Austrians were left inside Yugoslavia. The result of this was that national minorities began to demand the reorganisation of State boundaries. This disturbed the political peace of the States concerned.

Thirdly, it is wrong to say that States composed of many nationalities cannot have free institutions and the people of such States cannot form a strong public opinion. U S A. and Switzerland have many nationalities. In spite of this, democracy is working there effectively.

Fourthly, Lord Acton rightly says : "Combination of different nations (nationalities) in one State is as necessary a condition of civilization as the combination of men in society. Inferior races are raised by living in political union with races intellectually superior."

What is the outcome of this discussion ? If different nationalities are able to live in peace, the principle of poly-national States is better than the principle of self-determination. If the principle of self-determination is followed rigidly, many small States will come into existence in the world and this will endanger international peace and progress. In the words of an eminent writer, one of the greatest needs of the modern world is the creation of political order in which the State is not necessarily co-terminus with the nationality. Of course, it is necessary to satisfy every nationality. Its culture, language, religion, etc., must be respected. If this is not done, a nationlity has the right to decide its political future.

POINTS AT A GLANCE

The principle of "one nationality, one State" means that the people who constitute a nationality have the right to form a separate State of their own.

Mill and other advocates of the above principle advance the following arguments :

1. It is in accord with the democratic principle.

2. It makes the working of the democratic government practicable.

3. It protects the culture, language, etc., of small nationalities.

Those who are against this principle argue as follows :

1. States composed of many nationalities can certainly have free institutions and their people can form a strong public opinion.

2. Inferior races, when combined with intellectually superior ones, are immensely benefited.

3. Many well-governed States will have to be broken up, and this will upset international order.

4. This principle creates national minorities.

105. Is India a Nation ?

When a nationality is politically organised, it becomes a nation. So there can be no nation without the sentiment of nationality.

The character of the Indian nation has always been a subject of bitter controversy. Certain foreign writers have tried to prove that India is not a nation in the true sense of the term. Many Muslim leaders also hold the same opinion. They say that the creation of Pakistan has shown that the people of India do not constitute one nation.

What arguments do they put forward in support of their case? They maintain that India lacks the different elements or marks of nationality. The characteristics of a nation are conspicuous by their absence in India. The people of India do not belong to the same racial stock. There is no common religion in India. India is a land of many religions. Religious differences among the people of India often result in communal riots. Further, there is no common language in India. Critics, therefore, conclude that India is not a nation.

There is no doubt that there exists a great diversity of races, languages and religious faiths in India. But it is unfortunate that critics exaggerate these differences. The differences of language, religion and race do not constitute an insurmountable barrier in the way of forming a nation. Take the example of Switzerland. The people of Switzerland do not belong to the same race. They do not have any common religion. They speak three languages. Differences of race, religion, etc., are found in the Soviet Union and America also. But do we ever say that these countries are not nations in the true sense? Critics of the Indian nation lay emphasis only on the centrifugal forces. They completely ignore the centripetal ones.

India is a geographical unit. She is now politically independent. The people of India have a common history. Members of all the communities—the Hindus, the Muslims, the Sikhs, etc.,—participated in the freedom movement, and underwent sufferings together. The memories of such sufferings and hardships have cemented Indian unity. It was Indian nationalism which fought against the foreign rule.

In spite of the great diversity of language, religion and race, we find a broad cultural unity among the citizens of India. The two important communities—the Hindus and the Muslims—have been living together for a long time. The Hindu and Muslim cultures have influenced each other a good deal and given rise to a sort of new culture. Take language, music and architecture. Both Hindu and Muslim writers have contributed to the development of Hindi and Urdu. We find many Sanskrit, Arabic and Persian words in these languages. The same holds good in the case of music and architecture where we find a good deal of intermingling. The religious differences among the Indian citizens are a passing phase in the history of India. They are the result of manipulations by interested parties. They are bound to come to an end soon.

Common economic interests, common fight against the foreign rule, the same system of education and of laws, etc., have forged national unity. India is a nation. The Indian citizens strongly feel that they do constitute a nation—the Indian nation.

106. What is nationalism? What are its merits and evils? Are nationalism and internationalism necessarily incompatible?

Nationalism is a very powerful factor in the world politics. It has led to the emergence of modern national States. It has resulted in imperialism and colonialism. Some regard it as the most important cause of war. There are others who believe that nationalism alone can form the real basis of world peace. In dependent countries in Asia and of Africa, it has given rise to freedom movements against the foreign rule. Nationalism is thus a big force at the present time.

But what is nationalism? It may roughly be defended as *the sentiment of a nation*. If a nationality does not have political aspirations, that is, if it does not desire to become a nation, nationalism is not born Nationalism is a sentiment which exhibits a burning desire on the part of a group to form and to maintain a sovereign nation-State with a view to promoting its own culture, traditions, institutions and interests.

Nationalism is a modern growth. Group-feelings that might be described as nationalism in the wide sense were found even in the ancient and medieval civilizations. The fact is that group-spirit has pervaded mankind from the very earliest time. But early group-feelings did not rest on a national basis. In the oriental empires, for example, these feelings manifested themselves in loyalty only to the personal leadership of a great warrior or a king. The feelings were not 'national' in the true sense. Chiefly for geographical reasons, ancient Greek City-States could not grow into a united national State having a large population and a big territory. The Roman Empire consisted of varied people having no national consciousness.

During the Middle Ages also, conditions were not ripe for nation-making. Feudalism (under the hegemony of the Roman Church) prevented the growth of nationalism. It was only towards the close of the Middle Ages that nationalism in the modern sense began to assert itself. England was the first country to become a Nation-State. The first Nation-States were dynastic and absolutist. The English, American and French revolutions combined the idea of the Nation-State with that of democracy, and nationalism remained associated with the striving for individual liberties throughout the nineteenth century. Only in the twentieth century did it assume new absolutist forms as exemplified in Fascism and Nazism.

Merits and Demerits of Nationalism. Nationalism has two offshoots, one constructive and the other destructive. Its constructive side can be described as follows :—

1. It has an ennobling effect on the individual. It lifts him to a higher plane. He gives up his selfish approach to things. He begins to care more for the nation of which he is a part. Inspired by it, an individual can rise to great heights of sacrifice for the sake of his nation.

2. It is a great cementing force. It unifies people, and enables them to lead a richer and fuller life.

3. It has given a great stimulus to art and literature. It provides to the poet, the writer, the painter and the sculptor fine themes. Inspired by it, many poets, writers and artists have made immortal contributions to the treasures of art and literature.

4. It has created a healthy spirit of national rivarly, and has resulted in material advancement of the people through development programmes such as huge irrigation works, industrial enterprises, etc.

5. Nationalism has exposed the injustice of foreign ruling nations. It has been proved beyond doubt that great progress can be made by a nation if it is free to determine its life in its own way. A free nation will make a valuable contribution to the progress of the world. Every nation has something to its credit. It can contribute something good to the stock of world culture and civilization if it is allowed to pursue its own ideals and distinctive way of life.

Now let us take the destructive or undesirable side of nationalism.

Nationalism is good as long as it is kept within bounds An extreme type of nationalism is a curse for humanity. It leads to imperialism and colonialism Under its influence, powerful Nation-States being to conquer the weaker ones in order to increase their power and wealth. Moreover, the rivalry and scramble for power among the powerful nations result in wars Peace and world order are not possible as long as some nations consider themselves superior to others and try to increase their power at their expense.

Nationalism and Internationalism. Internationalism is 'a system of thought and action designed to promote peaceful co-operation among the States of the world.' Internationalists believe in the unity of mankind. Their aim is to reduce or remove the barriers between nations. They lay emphasis on what unites the nations and not on what divides them. They are opposed to national hatreds and prides, and advocate international cooperation in the task of solving world problems, such as connected with food, health, communications, labour, peace and the like. Such problems cannot be solved by any nation sigle-handed. The ultimate ideal of internationalists is the abolition of external sovereignty of the State in favour of an international federation. Internationalism is the basis of such organisations as the old League of Nations and the present United Nations Organisation.

Internationalism is not opposed to the true spirit of nationalism. They can exist side by side. Just as an individual is not free to do whatever he likes, so no nation must be free to do whatever it likes. It must respect the rights and the way of living of other nations. As stated above, internationalism implies the idea of a world federation. In such a federation, every nation will be able to pursue its own way of life without endangering the way of life of other nations. The days of narrow nationalism are gone. We are living

in the nuclear age. The States of the world must give up their narrow nationalism if they want to escape annihilation.

107. Write a short essay on the League of Nations.

The First Great War ended in 1918. The War caused so much misery and devastation that it was felt necessary to take effective steps to secure peace for mankind and to prevent the repetition of such a war. One of the most important tasks of the Peace Conference after the war was the creation of the League of Nations. It was formally set up in 1920 President Wilson of America was one of the most enthusiastic exponents of the League of Nations.

The ideal of a League of Nations consisting of all the important States of the world was not a new one. It was one of the oldest dreams of political thinkers and statesmen. In the 19th century, the method of arbitration was often resorted to for settling international disputes. The Hague Conference of 1899 gave birth to the establishment of a permanent court of arbitration. The Second Hague Conference met in 1907. The conference debated and laid down the rules of war. During this period there were many treaties of arbitration by which the States concerned pledged themselves to settle their disputes by arbitration. But all hopes of international peace by arbitration were falsified by the events which resulted in the Great War of 1914.

PURPOSES

The League of Nations represented the first good attempt at creating a world wide organisation of States. Unfortunately, the United States of America could not become a member of the League of Nations because the Senate refused to ratify the Peace Treaty (Treaty of Versailles) under which the League of Nations had come into being. The American Senate was of the opinion that the United States should not interfere in European affairs, and that she should pursue a policy of isolation. The President was disowned in his own country.

The principal purposes of the League of Nations were to further the interests of world peace and to promote internation co-operation in solving problems of international character.

The Treaty of Versailles was signed by 26 countries. They were the original members of the League of Nations. This international organisation was established by the victors of the First Great War. Afterwards many more countries joined the League. At one time the League had 56 members. Germany was admitted in 1925 and the Soviet Union in 1934. Withdrawal was possible only after two years' notice. The seat or capital of the League was Geneva (Switzerland).

ORGANS

The chief organs of the League were the Assembly, the Council, the Secretariat, and the Permanent Court of International Justice. In addition, there was a collateral organisation to deal with labour matters. It was called the International Labour Organisation.

The Assembly consisted of the representatives of all member-States. Three delegates from each State could attend the Assembly, but there was only one vote for a State. It met once a year at Geneva and dealt with any matter within the sphere of action of the League. All decisions except on minor points were to be unanimous.

The Council consisted of fourteen members, out of whom five were permanent and nine non-permanent. The five permanent members were England, France, Germany, Japan and Italy. Non-permanent members were elected by the Assembly for three years. In the beginning, the Council consisted of eight members out of which four members were permanent. The Council was summoned four times a year. All the decisions of the Council were to be unanimous.

It dealt specially with disputes between member-States, with reduction of armaments, with execution of arbitral awards, exclusion of members for violations of the Covenant and several other matters.

The Secretariat consisted of the Secretary General and his staff, with headquarters at Geneva. The secretariat kept all records and conducted correspondence. All treaties concluded by member-States were registered with it. The Secretary-General was appointed by the Council with the consent of the Assembly.

The Court was stationed at The Hague in Holland. It consisted of fifteen judges who were elected by the Council and the Assembly for nine years. It dealt with disputes involving questions of international law, interpretation of treaties, etc., which were submitted to it by the States concerned. It could give an advisory opinion with regard to any dispute or question referred to it by the Council or by the Assembly.

The aim of the International Labour Organisation was to raise the standard of living of the workers of the world. Every year an international labour conference was held which was attended by four delegates of each member-State. Two delegates represented the government of the State concerned, and the other two represented management and workers respectively.

In addition to these main organs of the League of Nations, there were many other commissions and committees of the League of Nations. One of them was Mandates Commission. Its job was to look after the well-being and development of those colonies which were not yet able to stand by themselves in the strenuous conditions of the modern world. But it should be remembered that the mandatory system was applied only to the colonies of the defeated countries, it was not applied to all colonies. The administration of these colonies was entrusted to the more advanced nations.

ESTIMATE OF THE LEAGUE

The League was a great experiment in the international sphere. It was able to secure a good deal of cooperation of its members in non-political matters such as control of epidemics, suppression of

slavery and traffic in women and children, control of dangerous drugs and the like.

It could not, however, solve political questions. It is true that it was able to prevent a few small conflicts—for example, the conflict between Iraq and Turkey in 1924-25, between Bulgaria and Greece in 1925, etc. But the League failed in greater tests. In 1932, Japan attacked China in Manchuria. When the League condemned that action, Japan deserted the League which did nothing to punish her. In 1935, Italy attacked Abyssinia. The League could not take any effective action against her. It could not go beyond limited economic sanctions which it had to remove in the end without having achieved its purpose.

All these events badly undermined the prestige of the League. The result was that the European countries returned to the policy of blocs and alliances which the League had tried to replace by a policy of 'collective security.' The League became inactive after that. It did nothing to prevent Hitler from following his aggressive policies in 1938 and 1939. It failed to stop the Second Great War. The main causes of the failure of the League were as follows :—

Firstly, the Treaty of Versailles which brought the League into existence was vindictive. The treatment meted out to Germany was very harsh. She was deprived of her former territories. The reparations demanded from her were very high and unjust. She was not prepared to honour her commitments under the Treaty of Versailles.

Secondly, there was no international co-operation and goodwill, particularly on the part of big Powers. America did not join the League at all. So the League was deprived of the services of a big Power which could contribute a good deal to the maintenance of world peace. Another big Power, Soviet Russia, joined it very late when it had become almost certain that the League was not going to succeed. Germany, Italy and Japan repudiated after a few years everything for which the League stood. They deserted the League, making it very weak. The remaining two, Britain and France, supported the League only half-heartedly. Nor were they expected to bear all the burden of maintaining international peace.

Thirdly, the League was greatly handicapped by the rule of unanimity which was necessary in the Council (as well as in the Assembly) to make its decisions valid and effective. It was difficult to achieve unanimity in an international body consisting of members having different ideals and views.

These defects of the League weakened it and led to its inevitable collapse.

U. N. O.

103. Write an essay on the United Nations Organisation.

The League of Nations was the child of the First Great War, and out of the ashes of the Second Great War was born the U.N.O.

The idea that peace must be put on a firm footing took a deep root and developed to maturity during the World War II which had proved to be more devastating than even the First Great War. It was this war in which the Atom Bomb was used. The human misery caused by this war once again roused the conscience of men. A conference was held at San Francisco where the scheme of setting up a new international organisation was finally concluded and the Charter of the U N O was adopted This conference was attended by the representatives of fifty nations including India. The United Nations Organisation came into being on the 24th October, 1945.

On this occasion a representative of America said : "This Charter is a compact born of suffering out of war. With it now rests our hope for good and lasting peace."

PURPOSES

The declared purposes of the United Nations are four : *first* maintenance of international peace and security ; *secondly* development of friendly relations among nations ; *thirdly*, international co-operation for the solution of international problems of an economic, social, cultural or humanitarian character and for the promotion of human rights and fundamental freedoms, and *fourthly*, co-ordination of all international activities.

Maintenance of international peace and security is rightly placed at the top of the purposes of the United Nations because in the absence of peace the other purposes cannot be achieved. The most important purpose of the U. N. O. is to further world peace.

PRINCIPLES

The basic principles on which the United Nations Organisation is based are, briefly these : *first*, all member-States are sovereign and equal ; *secondly*, all are pledged to settle their disputes by peaceful means and in such manner as not to endanger the peace of the world ; *thirdly*, all members are pledged to give every assistance to the United Nations when, in accordance with the Charter, it takes any action, and also not to give any assistance to a State against which the United Nations takes action to preserve or restore peace ; *fourthly*, the United Nations shall not intervene in matters which are essential within the domestic jurisdiction of any State.

MEMBERSHIP

Membership of the United Nations is open to all peace-loving States—which accept the obligations of the Charter and are judged by the Organisation to be able and willing to carry out these obligations. At present there are 104 members of the U. N O. The world organisations now represent near-universality. If a member persistently violates the principles of the Charter, it may be expelled from the Organisation by the General Assembly acting on the recommendations of the Security Council.

ORGANS

The work of the U. N. O. is carried on by six major organs—the General Assembly, the Security Council, the Economic and Social Council, the Trusteeship Council, the International Court of

The *General Assembly* is the main deliberative organ of the U. N. O. It is a sort of World Parliament. It consists of all members of the U. N. O. Each member can send five representatives to its sessions, but it possesses only one vote. The Assembly meets usually once a year. Special sessions are called if some very urgent matter has to be discussed. The main functions of the Assembly are :—

1. It has the right to discuss and make recommendations on all matters within the scope of the Charter. It cannot, however make recommendations with regard to a question or dispute which is already being dealt with by the Security Council. On ordinary matters, the Assembly reaches its decision by a simple majority of those present and voting, and on important matters by a two thirds majority. This is a departure from the rule of unanimity adhered to by the League of Nations.

2. The Assembly has the power to discuss the working and functions of the other organs. This gives it a central position in the organisation. All the organs of the United Nations, including the Security Council, have to submit their reports to the General Assembly.

3. Further, the Assembly elects the six non-permanent members of the Security Council, all the 18 members of the Economic and Social Council and certain members of the Trusteeship Council. The Judges of the International Court of Justice are appointed by the Assembly in cooperation with the Security Council. On the recommendations of the Security Council, the Assembly admits new members of the U. N. O. and appoints the Secretary General, the custodian of its Secretariat.

4. An important job of the General Assembly is to approve the budget of the whole organisation and to apportion the expenses among the member-States.

5. The Assembly has the further responsibility of approving draft treaties and conventions prepared under United Nations auspices and the right to call dangerous international situations to the attention of the Security Council.

The U. N. O. Charter has not specifically conferred on the Assembly the authority to engage in the maintenance of international peace. The Charter permits the Assembly only to make recommendations concerning the problems of peace and security. The Assembly, however, passed one "Uniting for Peace Resolution" on November 3, 1950. This resolution enabled the Assembly to take affirmative steps to maintain the sovoreignty of South Korea. It asked the member-States to join in a collective police action against North Korea which had attacked South Korea. The Security Council could not take effective action in the Korean crisis because of Soviet veto.

The *Security Council* is a sort of world executive. It consists of eleven members. Britain, America, France, China, (Nationalist) and the Soviet Union are its permanent members. The non-permanent members are elected by the General Assembly for a two-year term and are not eligible for immediate re-election.

The Security Council has the primary responsibility for the maintenance of international peace and security. Each member of the Security Council has one vote. Decision on procedural (routine) matters are taken by an affirmative vote by at least seven members. Decisions on substantive (important) matters also require seven affirmative votes, but these seven must include the affirmative votes of all the five permanent members. This is called the rule of "Great Power unanimity", popularly referred to as the 'Veto.'

Maintenance of peace requires constant vigilance and may call for prompt actions. So the Security Council is in session all the year round. Generally it meets once a fortnight.

In the event of a threat to or breach of the peace, the Security Council has powers to take necessary action in order to restore peace and security. The measures which it can take include severence of communications, of economic and diplomatic relations and, if necessary, action by armed forces. All the members of the U. N. O. are expected under the Charter to make available to the Security Council their armed forces.

The *Economic and Social Council* consists of 18 members who are elected by the General Assembly. Its aim is to build a world of greater prosperity, stability and justice. It studies economic, social, cultural, educational, health and related matters and makes recommendations to the General Assembly, or to the members of the United Nations with regard to them. It meets at least twice a year.

It appoints commissions to deal with particular aspects of its work. These commissions are small bodies. They deal with special subjects and they give expert advice to the Council.

One of its important functions is to bring specialised agencies such as International Labour Organisation (I. L O.), United Nations Educational, Scientific and Cultural Organisation (UNESCO), etc., into relationship with the United Nations and to co-ordinate their activities.

The *Trusteeship Council* is responsible for administration and supervision of the following kinds of territories :

(*a*) Territories placed under the mandate system of the League of Nations.

(*b*) Territories taken from enemy States during the Second World War.

(*c*) Other territories voluntarily placed under the U. N. O.

The Council carries on the administration and supervision of these territories through States which are made trustees. The countries administering trust territories and the permanent members of the Security Council are the members of Trusteeship Council. The General Assembly also elects some additional members in order to maintain equality between members who administer trust territories and those which do not. The Trusteeship Council seeks to ensure the political, economic and educational advancement of

The *International Court of Justice* is the principal judicial organ of the United Nations. It is composed of fifteen judges elected independently by the Security Council and the General Assembly. The judges are elected for a period of nine years, one-third retiring every third year. The permanent seat of the Court is at The Hague in Holland.

The Court functions under a statute which is a part of the Charter of the United Nations. So every member-State of the United Nations has automatic access to the Court.

The jurisdiction of the Court comprises all cases which the member-States refer to it and all matters specially provided for in the Charter or in the treaties in force. Every member-State is pledged to comply with the decisions of the Court in any case to which it is a party. As the member-States are sovereign States, the Court cannot summon any State against its will. The Court cannot proceed to decide a dispute merely because one State files a case against another. The other party too, *i.e.*, the defendant State, has to give its consent that the Court should take up the case.

In addition to judging legal disputes which are referred to it, the Court gives advisory opinion on legal matters referred to it by the General Assembly, the Security Council and other organs and specialised agencies.

The *Secretariat* of the U. N. O is an international civil service drawing its many employees from all the member-States. It is headed by a Secretary-General, who is the Chief Administrative Officer of the United Nations. He is appointed by the General Assembly on the recommendation of the Security Council.

The Secretariat arranges meetings of the U. N. organs, makes permanent records of all proceedings, puts important discussions into the five official languages—Chinese, English, French, Russian, and Spanish—and informs the world about the aims and activities of the United Nations. It also collects information, compiles statistics and publishes reports on many subjects. Every treaty and every international agreement entered into by any member of the United Nations must be registered with the Secretariat and published by it.

The Secretary-General makes an annual report to the General Assembly on the work of the United Nations. He is also empowered to bring to the attention of the Security Council any matter which, in his opinion, may threaten international peace and security.

In addition to these main organs of the United Nations, several specialised agencies are working in the international field. They are attached to the U. N. O.

ESTIMATE OF THE U. N. O.

The United Nations is the second attempt to create a world-wide collective security system and a permanent international organisation through which peace and progress can be fostered. It is an improvement on the late lamented League of Nations. Its first

advantage over the League of Nations is that it is more broad based. Membership of the League was always incomplete, for America never joined it. Soviet Russia joined it when it was already too late. Today 104 nations are members of the United Nations. It now represents near-universality. Only Red China and Germany (two Germanys) are not members of the U. N. O. The case of China is very peculiar. She is not only a member but one of the permanent members of the Security Council. She is represented by the Government of General Chiang Kai-shek in the island of Formosa, and not by the Communist Government which controls the whole of the Chinese mainland. America has not recognised Red China and is opposing her admission to the U. N. O. Germany is the victim of cold war and is divided into two parts. The problem of German re-unification is one of the most important unsolved problems resulting from the Second World War.

The *second* difference between the U. N. O and the defunct League of Nations is that the Security Council, which has the main responsibility for the preservation of peace, remains in continuous session. It can immediately deal with an act of aggression, or any threat to peace. No organ of the League of Nations was in continuous session. As a result of this, international disputes were taken up by the League after long intervals. That caused dangerous delays.

Another difference between the League and the United Nations is that the League could apply only economic sanctions whereas the U. N. O is competent to take military action also. Korea and the Congo are examples of countries where the U. N. O. took military action to maintain international peace.

Further, the rule of unanimity for arriving at decisions has been given up in the case of the U. N. O. 'Unanimity rule' was a great hindrance in the way of the League of Nations.

But all this does not mean that the U. N. O. is free from defects. The power of veto given to the five permanent members of the Security Council has already done a good deal of harm to the U N.O. It has undermined its prestige. This implies that through veto in the Security Council, any one of the big powers can prevent action against flagrant breaches of the peace. No action can be taken if any of the 'Big Five' commits aggression. The United Nations was able to halt aggression in Korea in 1950 because Russia at that time happened to be boycotting the United Nations and so sent no representative to the emergency meetings of the Security Council. (Russia later returned and began to prevent effective United Nations assistance to South Korea). Thus no veto was used.

Another defect of the U. N. O is that though it can take military action against an aggressor, it has no army of its own. It is an association of soverign States. The member-States have not given up any part of their sovereignty. They may or may not place their armed forces at the disposal of the Security Council when it decides to take military action against an aggressor.

The most serious defect of the United Nations is that America and Russia, which are the two most important Powers, are not co-operating with each other. The ideological differences among the big Powers do not allow them to work in harmony and co-operation. The result of this is that many regional organisations like NATO, SEATO, Warsaw Pact, etc., have come into existence, and they are taking the place of the system of elective security. Armament race continues.

All these defects of the U. N. O. have made some people remark that the U. N. O. is the League of Nations in a new guise.

It is true that the United Nations has not realised the noble hope of its Charter—'to save the succeeding generations from the scourge of war.' Yet, its utility and achievements cannot be ignored. It was able to stop shooting wars in Palestine and Kashmir. The Indonesian Republic was born under the United Nations auspices. It beat aggression in Korea by the force of collective arms. The Suez Affair which had the potentialities of developing into a World War was handled by the U. N. O. promptly and firmly. It is now engaged in solving the Congo problem. It is the broadest medium so far conceived for the discussion of international problems and for the creation of world opinion. In the economic and social spheres, it has a good record. Its specialized agencies—I. L. O., W. H. O., UNESCO, etc.—have done and are doing a very good job.

To sum up, it cannot be denied that the U. N. O. has certain obvious defects. It is really unfortunate that big Powers are not cooperating with one another. But we should not be sceptical of this organisation. Nor should its defects shake our faith in its idealism. The United Nations may not be a perfect international organisation, but it is still the best that man has yet devised.

108. Write short notes on the following specialized agencies of the U. N. O. :—

- **(a) International Labour Organisation (I. L. O.) ;**
- **(b) United Nations Educational, Scientific and Cultural Organisation (UNESCO) ;**
- **(c) World Health Organisation (W. H. O.).**
- **(d) Food and Agriculture Organisation (F. A. O.).**

The United Nations is expected under the Charter to try to solve international economic, social, health and related problems and to foster international, cultural and educational co-operation. To achieve this purpose the United Nations works with a number of inter-governmental organisations called specialized agencies. Each agency operates in its specialized field. Each agency is an independent organisation. It has its own Constitution and its own funds. Each of the agencies has entered into an agreement with the United Nations. The United Nations helps to coordinate the activities of these specialized agencies.

(*a*) I. L. O. The International Labour Organisation or I. L. O. was [illegible] set up in [illegible] under the Treaty of Versailles, as an [illegible] associated with the League of Nations. It [illegible] relation [illegible] with the United Nations [illegible] agreement concluded with the U. N. Economic and Social Council in [illegible]. It has its main offices in Geneva.

[illegible] organisation is to help to improve the economic and [illegible] of workers all over the world. It [illegible] matters [illegible] working hours, minimum wages, the [illegible] of young workers and women, industrial safety and the like.

The main organs of the I. L. O. are the International Labour Conference, the Governing Body and International Labour Office headed by a Director-General.

The Conference is the policy-making body of the I. L. O. It meets at least once a year. It is composed of national delegations. Every national delegation consists of two government delegates and two delegates representing management and labour respectively. Each delegate has one vote in the Conference. At this conference minimum standards regarding such matters as hours of work, minimum wages, etc., are set up. Members are asked to enforce these labour standards through appropriate national laws.

The Governing Body is the executive council of the I. L. O. It is composed of the representatives of governments, employers and labour. The Governing body appoints the Director-General and supervises the work of the International Labour Office and of the various committees and commissions of the I. L. O. It fixes the agenda for the Conference in so far as it is not fixed by the Conference itself and prepares the annual budget to be adopted by the Conference.

The International labour office is the permanent secretariat of the I. L. O. It is located at Geneva, Switzerland. It prepares documents for the meetings of the Conference and of the Governing Body, publishes periodicals, studies and reports on social and economic questions, and collects and distributes information on all subjects within the organisation's competence. It provides, on request, advice and technical assistance to governments, to workers' and employers' organisations and to other bodies.

(*b*) United Nations Educational, Scientific and Cultural Organisation. It came into existence in November, 1947. The purpose of the organisation is to contribute to peace and security by promoting collaboration among nations through education, science and culture. It tries to develop a greater mutual understanding among the peoples of the world and to help to remove the prejudices and ignorance which may separate them. It furthers mutual knowledge among the nations of the world through films, radio, press and through such projects as the exchange of eminent persons. It encourages the spread of culture by the interchange of books and works of art. It has its main offices in Paris.

The organs of the UNESCO are the General Council, the Executive Board, the Secretariat and the National Co-operating Bodies. The General Conference meets every other year. It is the programme and policy-making body of the Organisation. The government of each member-State may appoint not more than five delegates to the Conference, and each member has one vote. The Conference advises the U. N. O. on matters within its field. It considers reports from member-States. It elects the members of the Executive Board. It appoints the Director-General on the recommendation of the Board. It approves the Budget and apportions financial responsibility among the member-States.

The Executive Board is responsible for carrying out the policy adopted by the General Conference. The Secretariat consists of the Director-General and his staff.

National Co-operating Bodies or Commissions are appointed by the members of UNESCO. They help to carry out the programme of the UNESCO. They serve as liaison groups between UNESCO and the principal national educational, scientific and cultural bodies.

(*c*) **World Health Organisation.** The purpose of the World Health Organisation or W. H. O. is to raise health standards and to make information on medical research available to all countries. It works with and through national health services to co-ordinate international health activity and make health knowledge available. It gives technical assistance to governments. It promotes research in health and medicines and conducts international surveys. It publishes technical reports on health services and research. It came into existence in 1948. Its main offices are in Geneva, Switzerland.

The main organs of the W. H. O. are the World Health Assembly, the Executive Board and the Secretariat. The World Health Assembly is the policy-making body of the Organisation. It meets in regular annual sessions. Each member-State may be represented in the Assembly by not more than three delegates.

The Executive Board implements the decisions and policies of the Assembly and may also undertake emergency measures to deal with urgent situations requiring immediate international action.

The Secretariat is headed by the Director-General. He is appointed by the Health Assembly on the nomination of the Executive Board. He appoints the necessary technical administrative staff.

Besides, the World Health Organisation has established several regional organisations. The regional organisation for South-East Asia is in New Delhi.

(*d*) **Food and Agriculture Organisation.** It came into existence in 1945. Its aim is to raise levels of nutrition and standards of living of the peoples of the world, to secure improvements in the efficiency of the production and distribution of all food and agricultural products and to improve the condition of all populations. It provides governments with an up-to-date picture of the world food and agricultural situation to help them to draw up their food production plans. Its permanent offices are in Rome, Italy.

It works through a Conference, a Council and a staff headed by the Director-General. The Conference is a policy-making body. The Council supervises the work of the organisation. It is elected by the Conference. It has established several regional offices also.

LIST OF IMPORTANT QUESTIONS

Examinees are advised to prepare the following questions thoroughly.

1. Define Political Science and indicate its scope. Do you think that it is really a science ?

2. Discuss the relationship of Political Science with (*a*) History (*b*) Economics and Ethics.

3. Define State and distinguish it from society, government and nation.

4. 'The organismic theory of the State is neither a satisfactory explanation of the nature of the State nor a trustworthy guide to State activity.' Discuss.

5. Examine critically the idealist theory of the State.

6. Discuss critically the following theories of the origin of the State : (*a*) the theory of force ; (*b*) the social contract theory ; (*c*) the evolutionary of historical theory.

7. Write a brief note on Rousseau's concept of General Will.

8. Trace the evolution of the State from primitive times to the present day.

9. Discuss critically the Austinian theory of sovereignty.

10. Write a short essay on pluralism.

11. Discuss the relationship between (*a*) law and morality ; (*b*) law and liberty ; (*c*) law and public opinion.

12. What is international law ? Is it law proper ?

13. Define liberty and equality. Are the two necessarily incompatible ?

14. Do you agree with the view that Aristotelian classification of States is unsuited to the facts of modern political organisation ? Suggest a suitable classification of the modern States.

15. What is democracy ? Discuss its merits and demerits.

16. Distinguish between parliamentary and presidential forms of government and discuss their merits and demerits.

17. What is a federation ? Discuss its strength and weakness.

18. "Strict separation of powers is not only impracticable as a working principle of government, but it is not one to be desired in practice." Discuss. Are checks and balances the same as separation of powers ?

19. Critically examine the advantages and disadvantages of bicameralism.

20. Write an essay on 'direct legislation.'

21. What are the functions of the judiciary in a democracy? Explain the expression "independence of the judiciary" and suggest methods by which judges can be made independent.

22. Discuss 'Rule of Law' *vs*. 'Administrative Law.'

23. Discuss critically the various methods that are generally suggested for the representation of minorities.

24. Discuss the role of political parties in a democracy.

25. Discuss critically the following political theories.

(*a*) Individualism.
(*b*) Socialism (State Socialism)
(*c*) Communism
(*d*) Anarchism.
(*e*) Fascism.
(*f*) Gandhism.

26. Write an essay on the United Nations Organisation.

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